रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. No. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 9] नई दिल्ली, फरवरी 25—मार्च 3, 2018, शनिवार/ फाल्गुन 6—फाल्गुन 12, 1939
No. 9] NEW DELHI, FEBRUARY 25—MARCH 3, 2018, SATURDAY/PHALGUNA 6—PHALGUNA 12, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 18 जनवरी, 2018

का.आ. 365.—दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्द्वारा श्री नारायण रेड्डी एम., अधिवक्ता को बेंगलुरू स्थित कर्नाटक उच्च न्यायालय, में दिल्ली विशेष पुलिस स्थापन (सीबीआई) के लिए अभियोजन, अपील, पुनरीक्षण, करने या दिल्ली विशेष पुलिस स्थापन (सीबीआई) द्वारा अन्वेषित मामलों से उद्भूत अन्य मामलों हेतु नियुक्ति की तारीख़ से तीन वर्षों अथवा अगले आदेश, जो भी पहले हो, तक के लिए विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/27/2017-एवीडी–II]

एस. पी. आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 18th January, 2018

S.O. 365.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Narayana Reddy M., Advocate as Special Public Prosecutor for the Delhi Special Police Establishment (C.B.I.) in the Karnataka High Court at Bangalore for conducting the prosecution, appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/27/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 19 जनवरी, 2018

का.आ. 366.—केन्द्रीय सरकार एतद्द्वारा दंड प्रकिया संहिता, 1973 (1974 का अधिनियम संख्या 2) की धारा 24 की उपधारा 8 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एर्नाकुलम स्थित केरल उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित मामलों में अभियोजन का संचालन करने के लिए श्री अजीत कुमार एस., अधिवक्ता को दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) में उनकी नियुक्ति की तारीख से तीन वर्षों के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/25/2017-एवीडी–II]

एस. पी. आर त्रिपाठी, अवर सचिव

New Delhi, the 19th January, 2018

S.O. 366.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Ajith Kumar S. Advocate as Special Public Prosecutor for the Delhi Special Police Establishment (C.B.I.) in the Kerala High Court at Ernakulum for conducting the prosecution, appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/25/2017-AVD-II]

S. P. R. TRIPATHI, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 19 फरवरी, 2018

का.आ. 367.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्द्वारा केन्द्र सरकार भारत के प्रधान कोंसलावास, दुबई में

(i) श्री सुमित कुमार, सहायक अनुभाग अधिकारी तथा

(ii) श्री मनोज कुमार, निजी सहायक को दिनांक 19 फरवरी, 2018 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/03/2018]

प्रकाश चन्द, निदेशक (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. DIVISION)

New Delhi, the 19th February, 2018

S.O. 367.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints:

(i) Shri Sumit Kumar, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai, and

(ii) Shri Manoj Kumar, PA as Assistant Consular Officer in Consulate Gereral of India, Dubai to perform the Consular Services with effect from 19th February, 2018.

[No. T-4330/03/2018]

PRAKASH CHAND, Director (Consular)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 20 नवम्बर, 2017

का.आ. 368.—भारतीय आयुर्विज्ञान परिषद अधिनियम,1956(1956 का 102) की धारा 11 की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है।

उक्त प्रथम अनुसूची में 'मान्यता प्राप्त आयुर्विज्ञान अर्हता' शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] "डॉ.एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा" के सामने अंतिम प्रविष्टि के पश्चात् और 'पंजीकरण के लिए संक्षिप्तिकरण' [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंत:स्थापित किया जाएगा. अर्थात्:-

(2)	(3)
बेचलर ऑफ मेडिसिन और बेचलर ऑफ सर्जरी	एम.बी.बी.एस. (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह राजीव गांधी इंस्टिट्यूट ऑफ मेडिकल सांइसिस, ओंगोल में प्रशिक्षित किए गए छात्रों के संबंध में फरवरी, 2016 को या बाद में 100 एमबीबीएस छात्र वार्षिक प्रवेश क्षमता के साथ, डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, द्वारा प्रदत्त होगी।

नोट: 1. एमबीबीएस डिग्री प्रदान करने के लिए अधोस्नातक कोर्स को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित एमबीबीएस अधोस्नातक कोर्स में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/224/2015-एमई-I(एफटीएस. 3101873)]

डी. वी. के. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 20th November, 2017

S.O. 368.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956(102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act:

In the said First Schedule after "**Dr. NTR University of Health Sciences, Vijayawada**" and under the heading 'Recognized Medical Qualification' [Hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration" [Hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. This shall be a recognized medical qualification when granted by The Tamilnadu Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Rajiv Gandhi Institute of Medical Sciences, Ongole with annual intake of 100 MBBS students on or after February, 2016.

Note: 1. The recognition so granted to an under graduate courses for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. The procedure for 'Renewal' of recognition shall be same as applicable for the award for recognition.

3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned undergraduate Course.

[F. No. U-12012/224/2015-ME-I (FTS. 3101873)]

D. V. K. RAO, Under Secy.

नई दिल्ली, 1 जनवरी, 2018

का.आ. 369.—भारतीय आयुर्विज्ञान परिषद अधिनियम,1956(1956 का 102) की धारा 11 की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात:-

उक्त प्रथम अनुसूची में 'मान्यता प्राप्त आयुर्विज्ञान अर्हता' [जिसे इसके आगे कालम (2) कहा गया है] शीर्षक के अधीन "दि तमिलनाडु डॉ. एम. जी. आर. मेडिकल विश्वविद्यालय, चेन्नई" के सामने अंतिम प्रविष्टि के पश्चात् और 'पंजीकरण के लिए संक्षिप्तिकरण' [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंत:स्थापित किया जाएगा. अर्थात्:-

(2)	(3)
आयुर्विज्ञान स्नातक और शल्य-चिकित्सा स्नातक	एम.बी.बी.एस. (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह करपागाम फैकल्टी ऑफ मेडिकल सांइसिस एंड रिसर्च, कोयंबत्तूर में प्रशिक्षित किए गए छात्रों के संबंध में 150 एम.बी.बी.एस. छात्रों के वार्षिक प्रवेश क्षमता के साथ, फरवरी, 2017 को और या बाद में दि तमिलनाडु डॉ. एम. जी. आर. मेडिकल विश्वविद्यालय, चेन्नई द्वारा प्रदत्त होगी।

नोट: 1. अधोस्नातक कोर्स को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर,परिणाम स्वरूप,निरपवाद रूप से संबंधित अधोस्नातक कोर्स में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/224/2015-एमई- I (भाग ii)(एफटीएस. 3135553)]

डी. वी. के. राव, अवर सचिव

New Delhi, the 1st January, 2018

S.O. 369.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956(102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act:

In the said First Schedule after "**The Tamilnadu Dr. MGR Medical University, Chennai**" and under the heading 'Recognized Medical Qualification' [Hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration" [Hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. This shall be a recognized medical qualification when granted by The Tamilnadu Dr. MGR Medical University, Chennai in respect of students being trained at Karpagam Faculty of Medical Sciences & Research, Coimbatore with annual intake of 150 MBBS students on or after February, 2017.

Note: 1. The recognition so granted to an undergraduate courses for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

2. The procedure for 'Renewal' of recognition shall be same as applicable for the award for recognition.

3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned undergraduate Course.

[F. No. U-12012/224/2015-ME- I (pt. ii) (FTS. 3135553)]

D. V. K. RAO, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 22 फरवरी, 2018

का.आ. 370.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभागिओं की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र, भाग II खंड 3, उपखंड (ii), तारीख 29 अगस्त, 2010 से 4 सितम्बर, 2010 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 2178, तारीख 25 अगस्त, 2010 को उन बातों के सिवाय जो ऐसे अतिक्रमण से पहले की गई या किए जाने का लोप किया गया है, को अधिक्रांत करते हुए, नीचे दी गई सारणी के स्तम्भ (2) के अधिकारी को जो सेंट्रल कोलफील्ड्स लिमिटेड के अधिकारी हैं और केन्द्रीय सरकार के राजपत्रित अधिकारी की पंक्ति के समतुल्य हैं, उक्त अधिनियम के प्रायोजन के लिए, सम्पदा अधिकारी के रूप में नियुक्त करती है, जो उक्त सारणी के स्तम्भ (3) की तत्संबंधी प्रविष्टि में विनिर्दिष्ट, सरकारी स्थानों के प्रवर्गों की बाबत अपनी अधिकारिता की सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेंगे और उन पर अधिरोपित कर्तव्यों का पालन करेंगे।

सारणी

क्रम संख्या	सेंट्रल कोलफील्ड्स लिमिटेड के अधिकारी का पद नाम	सरकारी स्थान के प्रवर्ग और अधिकारिता की स्थानीय सीमा
(1)	(2)	(3)
1.	स्टाफ ऑफिसर (परियोजना और योजना), सेंट्रल कोलफील्ड्स लिमिटेड, मगध-आम्रपाली, पिन कोड- 829210.	सेंट्रल कोलफील्ड्स लिमिटेड के सभी परिसर, जो मगध-आम्रपाली क्षेत्र के भाग रूप हैं और झारखंड राज्य में स्थित चतरा तथा लातेहार जिलों में फैले हुए हैं।

[फा. सं. 43022/2/2018-एलए एण्ड आईआर]

आर. एस. सरोज, अवर सचिव

MINISTRY OF COAL

New Delhi, the 22nd February, 2018

S.O. 370.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Coal number S.O. 2178, dated the 25th August, 2010, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 29th August, 2010 to 4th September, 2010, excepts as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officer of Central Coalfields Limited mentioned in Column (2) of the Table below, being the officer equivalent to the rank of Gazetted Officer of the Central Government, to be the Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the Estate Officer by or under the said Act, within the local limits of their respective jurisdictions in respect of the categories of the public premises specified in the corresponding entry in column (3) of the said Table.

TABLE

Serial Number	Designation of the Officer of the Central Coalfields Limited.	Categories of the public premises and local limits of jurisdiction.
(1)	(2)	(3)
1.	Staff Officer (Project and Planning), Central Coalfields Limited, Magadh-Amrapali, Pin Code-829210.	All the premises belonging to Central Coalfields Limited and forming part of Magadh-Amrapali Area spread over in the Districts of Chatra and Latehar, in the State of Jharkhand.

[F. No. 43022/2/2018-LA & IR]

R. S. SAROJ, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 16 दिसम्बर, 2017

का.आ. 371.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इससे उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार,पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री के. ए. एस जेन्निसन, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना,प्लॉट संख्या 33, कनका दुर्गा ऑफिसर्स कॉलोनी, गुरुनानक नगर मेन रोड विजयवाड़ा-520008, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा

अनुसूची

जिला: वेस्ट गोदावरी		राज्य: आन्ध्रप्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
पोलावरम	गुटाला	828	00	38	15
तल्लापुडी	तुपाकुलागुडेम	172/1B	00	09	06
		172/2	00	27	72
तल्लापुडी	अन्नादेवरपेटा	179/3	00	07	90
		272/1	00	00	05
		263/4A	00	05	25
		267/2	00	19	74
		267/1	00	24	04
		332	00	24	78
		360	00	14	74
गोपालपुरम	गोपालपुरम	161	00	16	78
		256/3A	00	10	80
कामावरपुकोटा	रामन्नापालेम	20/19	00	06	21
		20/8	00	06	76
		20/4	00	08	93
		20/3	00	01	30
कामावरपुकोटा	कामावरपुकोटा	653/5	00	03	50
		653/4	00	05	82
		653/3	00	08	02
		653/2	00	04	11
		575/1	00	02	23
		574/3	00	10	76
		574/4	00	01	65
		53/2	00	08	98
		53/1	00	07	41
टी. नारासपुरम	कृष्णारावुपालेम	10/1A	00	18	96
चिंतलापूडी	वेंकमपालेम	75/8A	00	12	08
चिंतलापूडी	प्रगडावरम	670	00	14	76

575/2B	00	00	06

[फा. सं. आर-11025(11)/252/2017-ओआर-I/ई-21033]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 16th December, 2017

S.O. 371.—whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. K.A.S Jennyson, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 33, Kanaka Durga officer's Colony, Gurunank Nagar Main Road, Vijayawada -520008 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : West Godavari			**State : Andhra Pradesh**		
Name of Mandal	**Name of Village**	**Survey No.**	**Area**		
			Hectare	**Are**	**Square Metre**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
Polavaram	Gutala	828	00	38	15
Tallapudi	Tupakulagudem	172/1B	00	09	06
		172/2	00	27	72
Tallapudi	Annadevarapeta	179/3	00	07	90
		272/1	00	00	05
		263/4A	00	05	25
		267/2	00	19	74
		267/1	00	24	04
		332	00	24	78
		360	00	14	74
Gopalapuram	Gopalapuram	161	00	16	78
		256/3A	00	10	80
Kamavarapukota	Ramannapalem	20/19	00	06	21
		20/8	00	06	76
		20/4	00	08	93
		20/3	00	01	30
Kamavarapukota	Kamavarapukota	653/5	00	03	50
		653/4	00	05	82
		653/3	00	08	02
		653/2	00	04	11
		575/1	00	02	23
		574/3	00	10	76
		574/4	00	01	65
		53/2	00	08	98

		53/1	00	07	41
T Narasapuram	Krishnaraopalem	10/1A	00	18	96
Chintalapudi	Venkampalem	75/8A	00	12	08
Chintalapudi	Pragadavaram	670	00	14	76
		575/2B	00	00	06

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 16 दिसम्बर, 2017

का.आ. 372.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप- हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमी में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार,पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर. टी. सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: विशाखापटनम **राज्य: आँध्र प्रदेश**

मंडल का नाम	**ग्राम का नाम**	**सर्वे नम्बर**	**क्षेत्रफल**		
			हेक्टेयर	**एयर**	**वर्गमीटर**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
सब्बावरम	नारपाडू	226	00	90	45
अनकापल्लि	तुम्मपाला	704	00	33	32
		13	00	18	11
		705	00	16	87
		15	00	28	18
		17	00	13	19
		47	00	37	50
अनकापल्लि	अनकापल्लि	743	00	27	44
		741	00	37	71
		740	00	10	04
		732	00	09	69
		684	00	31	94
		681	00	19	80
		686	00	28	39

		718	00	26	73
		715	00	01	50
		716	00	08	84
		712	00	09	59
		697	00	20	38
		5	00	55	34
		4	00	33	32
		19	00	33	91
		18	00	12	65
		30-1	00	14	14
		31	00	13	21
मुनगापाका	नागावरम	143	00	39	64
		203	00	61	19
		202	00	39	11
		199	00	38	99
		198	00	26	04
		196	00	04	61
		197	00	31	03
		191	00	16	94
		190	00	25	37
		187	00	18	95
		185	00	22	36
		183	00	03	82
		184	00	05	51
		311	00	01	71
		302	00	31	63
		310	00	03	68
		303	00	24	85
		304	00	26	89
		305	00	14	29
		342	00	23	73
		341	00	24	06
		340	00	26	13
		339	00	35	44
		347	00	13	7
		358	00	13	43
		357	00	03	33
		354	00	11	53
		352	00	06	21
		351	00	25	87
अच्युतापुरम	दोप्परला	40	00	19	46
		42	00	12	14
		45	00	65	18
		47	00	00	10

		46	00	28	96
		86	00	03	14
		84	00	03	22
		83	00	42	10
		82	00	00	20
		76	00	22	92
		77	00	28	55
		75	00	00	37
		74	00	23	06
		72	00	51	72
		176	00	19	67
		177	00	22	04
		179	00	58	17
		181	00	08	24
		185	00	13	32
		184	00	07	05
		183	00	25	27
		219	00	58	32
		213	00	44	62
		226	00	08	18
		212	00	07	22
अच्युतापुरम	मडुतुरु	477	00	13	76
		469	00	00	04
		468	00	61	83
		460	00	15	30
		462	00	14	44
		463	00	13	98
		464	00	24	54
		456	00	01	64
		457	00	29	86
		424	00	26	30
		293	00	12	47
		294	00	01	46
		296	00	14	87
		288	00	18	47
		303	00	62	70
		305	00	04	11
		306	00	00	13
		308	00	38	37
		309	00	00	01
		310	00	23	50
		103	00	13	93
		104	00	41	12
		105	00	08	75

		106	00	00	78
		102	00	01	99
		96	00	07	27
		100	00	25	06
		62	00	01	04
		66	00	24	27
		75	00	16	68
		74	00	13	70
		76	00	08	38
		77	00	20	40
		78	00	47	80
		377	00	21	73
रामबिल्लि	दिमिलि	265	00	25	84
रामबिल्लि	राजाला	28	00	31	34
रामबिल्लि	विजयारामपुरम अग्रहारम	27	00	68	21
		26	00	05	28
		24	00	06	48
		31	00	04	43
		25	00	18	14
		23	00	04	34
		21	00	06	87
		19	00	24	39
		14	00	23	42
		17	00	02	74
		16	00	01	13
यलामंचिलि	कृष्णापुरम	200	00	16	03
यलामंचिलि	पदमानाबाराजुपेटा	144/1E	00	31	35
		144/1E-6A	00	31	35
		144/1E-6B	00	31	35
एस. रायवरम	पेटासूदिपुरम	50-4	00	00	27
		322	00	07	42
		338	00	26	24
नक्कापल्लि	गुल्लिपाडु	100	00	21	25
		103	00	21	59
		105	00	08	66
		107	00	37	34
नक्कापल्लि	उद्दंडापुरम	3	00	14	41
		4	00	15	88
		5	00	22	82
		6	00	09	64
		7	00	15	79
		8	00	39	81
		16	00	17	92

नक्कापल्लि	गोड्डिचरला	311	00	07	22
		312	00	32	31
		310 (तालाब)	00	27	05
		309	00	16	16
		307	00	20	12
		306	00	19	46
		305	00	13	27
		302	00	13	48
		299	00	13	55
		293	00	03	60
		300	00	00	52
		292	00	40	20
		290	00	15	69
		291	00	00	61
		322	00	42	08
		321	00	04	43
		371	00	19	68
		368	00	14	26
		359	00	07	32
		367	00	33	44
		366	00	00	36
		364	00	12	39
		365	00	13	28
		335	00	06	44
		336	00	18	09
		337	00	89	17
पायाकरावुपेटा	अरटलाकोटा	143	00	13	64
		143/A-1	00	13	64
		143/A-2	00	13	64
पायाकरावुपेटा	पल्टेरु	34	00	02	75
		33	00	27	90
		32	00	37	58
		3	00	01	37
		4	00	16	7
		5	00	04	97
		6	00	15	19
		7	00	27	51

[फा. सं. आर-11025(11)/252/2017-ओआर-I/ई-21033]

पवन कुमार, अवर सचिव

New Delhi, the 16th December, 2017

S.O. 372 .—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the **S**tate of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : VISAKHAPATNAM STATE : ANDHRA PRADESH

MANDAL	VILLAGE	SURVEY No.	AREA		
			Hectare	Are	Sq. Mt.
(1)	(2)	(3)	(4)	(5)	(6)
SABBAVARAM	NAARAPADU	226	00	90	45
ANAKAPALLI	TUMMAPALA	704	00	33	32
		13	00	18	11
		705	00	16	87
		15	00	28	18
		17	00	13	19
		47	00	37	50
ANAKAPALLI	ANAKAPALLI	743	00	27	44
		741	00	37	71
		740	00	10	04
		732	00	09	69
		684	00	31	94
		681	00	19	80
		686	00	28	39
		718	00	26	73
		715	00	01	50
		716	00	08	84
		712	00	09	59
		697	00	20	38
		5	00	55	34
		4	00	33	32
		19	00	33	91
		18	00	12	65
		30-1	00	14	14
		31	00	13	21
MUNAGAPAKA	NAGAVARAM	143	00	39	64
		203	00	61	19
		202	00	39	11
		199	00	38	99
		198	00	26	04
		196	00	04	61
		197	00	31	03
		191	00	16	94

		190	00	25	37
		187	00	18	95
		185	00	22	36
		183	00	03	82
		184	00	05	51
		311	00	01	71
		302	00	31	63
		310	00	03	68
		303	00	24	85
		304	00	26	89
		305	00	14	29
		342	00	23	73
		341	00	24	06
		340	00	26	13
		339	00	35	44
		347	00	13	7
		358	00	13	43
		357	00	03	33
		354	00	11	53
		352	00	06	21
		351	00	25	87
ACHUTAPURAM	DOPPERLA	40	00	19	46
		42	00	12	14
		45	00	65	18
		47	00	00	10
		46	00	28	96
		86	00	03	14
		84	00	03	22
		83	00	42	10
		82	00	00	20
		76	00	22	92
		77	00	28	55
		75	00	00	37
		74	00	23	06
		72	00	51	72
		176	00	19	67
		177	00	22	04
		179	00	58	17
		181	00	08	24
		185	00	13	32
		184	00	07	05
		183	00	25	27
		219	00	58	32
		213	00	44	62
		226	00	08	18
		212	00	07	22
ACHUTAPURAM	MADUTURU	477	00	13	76
		469	00	00	04
		468	00	61	83

		460	00	15	30
		462	00	14	44
		463	00	13	98
		464	00	24	54
		456	00	01	64
		457	00	29	86
		424	00	26	30
		293	00	12	47
		294	00	01	46
		296	00	14	87
		288	00	18	47
		303	00	62	70
		305	00	04	11
		306	00	00	13
		308	00	38	37
		309	00	00	01
		310	00	23	50
		103	00	13	93
		104	00	41	12
		105	00	08	75
		106	00	00	78
		102	00	01	99
		96	00	07	27
		100	00	25	06
		62	00	01	04
		66	00	24	27
		75	00	16	68
		74	00	13	70
		76	00	08	38
		77	00	20	40
		78	00	47	80
		377	00	21	73
RAMBILLI	DIMILI	265	00	25	84
RAMBILLI	RAJALA	28	00	31	34
RAMBILLI	VIJAYARAMPURAM AGRAHARAM	27	00	68	21
		26	00	05	28
		24	00	06	48
		31	00	04	43
		25	00	18	14
		23	00	04	34
		21	00	06	87
		19	00	24	39
		14	00	23	42
		17	00	02	74
		16	00	01	13
YELAMANCHILLI	KRISHNAPURAM	200	00	16	03
YELAMANCHILLI	PADMANABHARAJUPETA	144/1E	00	31	35
		144/1E-6A	00	31	35

		144/1E-6B	00	31	35
S. RAYAVARAM	PETASUDIPURAM	50-4	00	00	27
		322	00	07	42
		338	00	26	24
NAKKAPALLI	GULLIPADU	100	00	21	25
		103	00	21	59
		105	00	08	66
		107	00	37	34
NAKKAPALLI	UDDANDAPURAM	3	00	14	41
		4	00	15	88
		5	00	22	82
		6	00	09	64
		7	00	15	79
		8	00	39	81
		16	00	17	92
NAKKAPALLI	GODICHERLA	311	00	07	22
		312	00	32	31
		310(POND)	00	27	05
		309	00	16	16
		307	00	20	12
		306	00	19	46
		305	00	13	27
		302	00	13	48
		299	00	13	55
		293	00	03	60
		300	00	00	52
		292	00	40	20
		290	00	15	69
		291	00	00	61
		322	00	42	08
		321	00	04	43
		371	00	19	68
		368	00	14	26
		359	00	07	32
		367	00	33	44
		366	00	00	36
		364	00	12	39
		365	00	13	28
		335	00	06	44
		336	00	18	09
		337	00	89	17
PAYAKARAOPETA	ARATLAKOTA	143	00	13	64
		143/A-1	00	13	64
		143/A-2	00	13	64
PAYAKARAOPETA	PALTERU	34	00	02	75
		33	00	27	90
		32	00	37	58
		3	00	01	37
		4	00	16	7
		5	00	04	97
		6	00	15	19

7	00	27	51

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 16 दिसम्बर, 2017

का.आ. 373.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. आर. आर. शेषु, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन्स प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, चौथी मंजिल, एल.आई.सी. एनेक्सी भवन, थिक्कना (डायमंड पार्क) रोड़, आर. टी. सी. कॉम्पलेक्स के पास, विशाखापटनम - 530004, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: श्रीकाकुलम		राज्य: आंध्र प्रदेश			
मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
सोमपेटा	कर्तालिपालेम	63	00	02	72
		62	00	22	95
		61	00	21	02
		60	00	25	21
		39	00	26	28
		38	00	05	20
		36	00	20	06
		33	00	25	86
		31	00	27	52
		27	00	26	99
		28	00	08	39
		22	00	42	19
		23	00	00	10
		19	00	37	08
		10	00	26	61
		143	00	08	88
		141	00	00	10

		142	00	49	43
		148	00	17	98
		149	00	31	96
		152	00	20	74
मंदासा	रघुनाथापुरम्	17/6	00	07	06
		17	00	32	94
		18	00	13	02
		21	00	27	11
		27	00	25	49
		29	00	09	57
		30	00	32	39
		32	00	00	93
		49	00	07	85
		50	00	29	08
		52	00	29	22
		55	00	20	42
		45	00	34	04
		43	00	06	08
		42	00	34	58
		34	00	02	12
		39	00	36	90
		38	00	06	91
पलासा	रामाकृष्णापुरम्	201	00	24	84
		148	02	81	71
		199	00	01	92
		209	00	22	70
		148	00	00	52
		208	00	31	66

[फा. सं. आर-11025(11)/252/2017-ओआर-I/ई-21033]

पवन कुमार, अवर सचिव

New Delhi, the 16th December, 2017

S.O. 373.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. R. R. Seshu, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, 4th floor, LIC Annexe Building, Thikkana (Diamond Park) Road, Near RTC Complex, Visakhapatnam - 530004 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

DISTRICT : SRIKAKULAM		STATE : ANDHRA PRADESH			
Mandal	Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
SOMPETA	KARTHALIPALEM	63	00	02	72
		62	00	22	95
		61	00	21	02
		60	00	25	21
		39	00	26	28
		38	00	05	20
		36	00	20	06
		33	00	25	86
		31	00	27	52
		27	00	26	99
		28	00	08	39
		22	00	42	19
		23	00	00	10
		19	00	37	08
		10	00	26	61
		143	00	08	88
		141	00	00	10
		142	00	49	43
		148	00	17	98
		149	00	31	96
		152	00	20	74
MANDASA	RAGHUNADHA PURAM	17/6	00	07	06
		17	00	32	94
		18	00	13	02
		21	00	27	11
		27	00	25	49
		29	00	09	57
		30	00	32	39
		32	00	00	93
		49	00	07	85
		50	00	29	08
		52	00	29	22
		55	00	20	42
		45	00	34	04
		43	00	06	08
		42	00	34	58
		34	00	02	12
		39	00	36	90
		38	00	06	91

PALASA	RAMAKRISHNAPURAM	201	00	24	84
		148	02	81	71
		199	00	01	92
		209	00	22	70
		148	00	00	52
		208	00	31	66

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 16 दिसम्बर, 2017

का.आ. 374.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि आंध्र प्रदेश राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप-हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार,पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री के. ए. एस जेन्निसन, सक्षम प्राधिकारी (आंध्र प्रदेश), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 33, कनका दुर्गा ऑफिसर्स कॉलोनी, गुरुनानक नगर मेन रोड विजयवाड़ा-520008, आंध्र प्रदेश राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला:- ईस्ट गोदावरी		**राज्य: आन्ध्र प्रदेश**			
			क्षेत्र फल		
मंडल का नाम	**ग्राम का नाम**	**सर्वे नम्बर**	**हेक्टेयर**	**एयर**	**वर्ग मीटर**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
सीतानगरम	रघुदेवापुरम	393/5	00	29	40
सीतानगरम	चिन्ना कोंदेपुड़ी	483	00	01	58
सीतानगरम	नल्लगोंडा	241/3	00	57	18
कोरुकोंडा	कोटी	202/1	00	02	44
		185	00	00	01
		330	00	34	42
		190	00	37	58
		187	00	32	62
		13	00	19	05
गोकावरम	गुम्मलादोड्डी	390/2	00	32	92
		390/1	00	13	23
		391	00	55	28
		9/3	00	10	36
		9/2	00	05	62
		9/1	00	04	72
		327	00	31	25

		328	00	01	51
गोकावरम	तिरुमलय्यपालेम्	404	00	27	63
		436	00	21	80
		416	00	23	42
		415	00	41	05
		344	00	58	19
		335/2	00	05	85
		259/2	00	15	18
		263	00	19	95
		223	00	22	21
		225/1	00	08	22
		207	00	09	73
जग्गम्पेटा	इर्रिपाका	223/6	00	02	34
		223/5	00	04	21
		223/4	00	04	32
		223/3	00	05	03
		223/2	00	05	00
		223/1	00	08	52
जग्गम्पेटा	मर्रिपाका	1/5	00	12	30
		1/4	00	12	03
		1/3	00	01	61
		1/2	00	25	25
		1/1	00	01	52
जग्गम्पेटा	राजापुडी	287/8	00	01	87
		102	00	72	45
		101	00	01	63
		160	00	13	20
		308	00	21	66
		318	00	40	34
		320	00	21	01
		312	00	25	48
जग्गम्पेटा	मल्लीसला	192/2B	00	01	12
		192/2A	00	03	74
प्रत्तिपाडु	धर्मावरम्	628	00	02	28
		616	00	29	40
		531	00	58	16
		722	00	19	66
		698	00	03	97
		686	00	11	85
		568	00	22	79
गोल्लाप्रोलू	चेब्रोलू	340	00	06	29
		365	00	13	80
		668	00	16	75

		512	00	29	59
		513	00	31	14
		539	00	28	40
गोल्लाप्रोलू	चिन्ना जग्गम्पेटा	14	00	66	88
गोल्लाप्रोलू	चेंदुरती	546	00	56	05
तोंडंगी	पैडिपल्ला अग्रहारम	33/1	00	18	16
तोंडंगी	ए कोत्तापल्ली	102/2	00	09	15
		69/3	00	03	61
		5/4	00	04	70
		365	00	21	43
		114	00	00	71
तोंडंगी	चिन्नयापालेम	205	00	00	09
तोंडंगी	रविकम्पाडु	179	00	43	15
तुनि	चामावरम	171/2	00	05	55
		171/1	00	04	73
तुनि	वल्लूरु	222/1	00	18	87
		221/2	00	25	78
तुनि	हमसावरम	33/2	00	15	93
		76	00	04	31
		79/10	00	02	21
		79/2	00	09	62
		79/9	00	04	81
		79/1	00	15	14
		79/4	00	17	57
		79/5	00	04	17
		81	00	01	58
		415/1	00	02	26
		415/2	00	02	27
		402	00	05	50
		26	00	65	16
		409	00	05	41
		410	00	06	20
		401	00	07	68
		399	00	06	09
		394	00	07	65
		391	00	09	74
		390	00	07	53
		389	00	05	50
		387	00	04	10
		386	00	04	70
		385	00	02	69
		384	00	03	88
		383	00	04	11

गोल्लाप्रोलू	विजयानगरम्	557	00	10	74
		556	00	31	64
		580	00	16	64
		553	00	44	20
		531	00	29	60
		533	00	15	70
		534	00	15	86
		535	00	58	03
		495	00	85	09
		468	00	69	87
		486	00	10	70
		470	00	22	70
		471	00	15	57
		472	00	10	58
		483	00	29	01
		481	00	27	85
		480	00	18	83
		479	00	11	94
		478	00	08	07
		476	00	01	83
		477	00	39	45

[फ़ा. सं. आर-11025(11)/252/2017-ओआर-I/ई-21033]

पवन कुमार, अवर सचिव

New Delhi, the 16th December, 2017

S.O. 374.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the state of Andhra Pradesh pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. K.A.S Jennyson, Competent Authority (Andhra Pradesh), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 33, Kanaka Durga officer's Colony, Gurunanak Nagar Main Road, Vijayawada -520008 within twenty-one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : East Godavari			**State : Andhra Pradesh**		
Name of Mandal	**Name of Village**	**Survey No.**	**Area**		
			Hectare	**Are**	**Square Metre**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
Seethanagaram	Raghudevapuram	393/5	00	29	40

Seethanagaram	Chinna Kondepudi	483	00	01	58
Seethanagaram	Nallagonda	241/3	00	57	18
Korukonda	Koti	202/1	00	02	44
		185	00	00	01
		330	00	34	42
		190	00	37	58
		187	00	32	62
		13	00	19	05
Gokavaram	Gummaladoddi	390/2	00	32	92
		390/1	00	13	23
		391	00	55	28
		9/3	00	10	36
		9/2	00	05	62
		9/1	00	04	72
		327	00	31	25
		328	00	01	51
Gokavaram	Tirumalayyapalem	404	00	27	63
		436	00	21	80
		416	00	23	42
		415	00	41	05
		344	00	58	19
		335/2	00	05	85
		259/2	00	15	18
		263	00	19	95
		223	00	22	21
		225/1	00	08	22
		207	00	09	73
Jaggampeta	Irripaka	223/6	00	02	34
		223/5	00	04	21
		223/4	00	04	32
		223/3	00	05	03
		223/2	00	05	00
		223/1	00	08	52
Jaggampeta	Marripaka	1/5	00	12	30
		¼	00	12	03
		1/3	00	01	61
		½	00	25	25
		1/1	00	01	52
Jaggampeta	Rajapudi	287/8	00	01	87
		102	00	72	45
		101	00	01	63
		160	00	13	20
		308	00	21	66
		318	00	40	34
		320	00	21	01
		312	00	25	48
Jaggampeta	Mallisala	192/2B	00	01	12
		192/2A	00	03	74
Prattipadu	Dharmavaram	628	00	02	28
		616	00	29	40

		531	00	58	16
		722	00	19	66
		698	00	03	97
		686	00	11	85
		568	00	22	79
Gollaprolu	Chebrolu	340	00	06	29
		365	00	13	80
		668	00	16	75
		512	00	29	59
		513	00	31	14
		539	00	28	40
Gollaprolu	Chinna Jaggampeta	14	00	66	88
Gollaprolu	Chendurti	546	00	56	05
Thondangi	Paidipalla Agraharam	33/1	00	18	16
Thondangi	A Kottapalli	102/2	00	09	15
		69/3	00	03	61
		5/4	00	04	70
		365	00	21	43
		114	00	00	71
Thondangi	Chinnayapalem	205	00	00	09
Thondangi	Ravikampadu	179	00	43	15
Tuni	Chamavaram	171/2	00	05	55
		171/1	00	04	73
Tuni	Valluru	222/1	00	18	87
		221/2	00	25	78
Tuni	Hamsavaram	33/2	00	15	93
		76	00	04	31
		79/10	00	02	21
		79/2	00	09	62
		79/9	00	04	81
		79/1	00	15	14
		79/4	00	17	57
		79/5	00	04	17
		81	00	01	58
		415/1	00	02	26
		415/2	00	02	27
		402	00	05	50
		26	00	65	16
		409	00	05	41
		410	00	06	20
		401	00	07	68
		399	00	06	09
		394	00	07	65
		391	00	09	74
		390	00	07	53
		389	00	05	50
		387	00	04	10

		386	00	04	70
		385	00	02	69
		384	00	03	88
		383	00	04	11
Gollaprolu	Vijayanagaram	557	00	10	74
		556	00	31	64
		580	00	16	64
		553	00	44	20
		531	00	29	60
		533	00	15	70
		534	00	15	86
		535	00	58	03
		495	00	85	09
		468	00	69	87
		486	00	10	70
		470	00	22	70
		471	00	15	57
		472	00	10	58
		483	00	29	01
		481	00	27	85
		480	00	18	83
		479	00	11	94
		478	00	08	07
		476	00	01	83
		477	00	39	45

[F. No. R-11025(11)/252/2017-OR-I/E-21033]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2017

का.आ. 375 .—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1686 तारीख 05.07.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 29, भाग II, खण्ड 3, उप खण्ड (ii) तारीख 16.07.2017 से 22.07.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल चिलुकूरू जिला सुर्यापेट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.11.2017 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलिय और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: चिलुकूरू **जिला : सुर्यापेट** **राज्य : तेलंगाना**

ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)
चिलुकूरू	627	00	20	51
	626	00	02	28
	628	00	01	05
	625	00	33	15
	623	00	53	05
	622	00	15	42
	632	00	20	89
	621	00	28	73
	618	00	63	39
	611	00	47	32
	612	00	10	44
	610	00	32	88
	568	00	12	42
	567	00	36	39
	333	00	00	93
	332	00	51	77
	331	00	14	93
	330	00	17	17
	337	00	15	23
	336	00	06	06
	338	00	27	62
	384	00	37	33
	392	00	19	17
	380	00	04	04
	393	00	39	38
	379	00	09	83
	378	00	43	20
	376	00	06	44
	375	00	20	49

	203	00	07	99
	202	00	35	88
	195	00	18	80
	199	00	26	64
	116	00	32	09
	128	00	46	18
	130/1	00	21	64
	129	00	00	26
	35	00	17	80
	125/2	00	28	19
	34	00	12	33
	33	00	28	69
	37	00	10	40
	38	00	22	01
	1390	00	18	69
	1387	00	18	78
	1386	00	00	0.23
	1388	00	36	37
	1382	00	29	59
	1334	00	59	03
	1327	00	39	11
	1326	00	18	82
	1292	00	18	42
	1296	00	46	56
	1295	00	49	49
	1239	00	43	96
	1238	00	29	81
	1237	00	14	37
	1235	00	38	37
	1310	00	21	42
	1234	00	02	74
कोंडापुरम	179	00	13	98
	180	00	30	65
	182	00	37	23
	185/3	00	53	68
	186	00	40	12
	188	00	11	04
	189/3	00	23	12
	189/2	00	01	13

	189/1	00	00	07
	160/1	00	49	89
	159	00	17	36
	158	00	28	18
	14	00	23	98
	15	00	18	48
	17	00	02	91
	18	00	00	02
	49	00	31	84
	48	00	27	16
	45	00	10	79
	44	00	14	67
	43	00	10	56
	42	00	14	77
	341	00	29	38
	41	00	09	73
	88	00	14	85
	94	00	13	83
	95	00	02	11
	98	00	03	22
बेतवोलु	441	00	58	08
	336	00	24	91
	337	00	24	68
	334	00	00	00
	338	00	00	00
	349	00	36	57
	350	00	32	81
	363	00	39	98
	364	00	27	92
	365	00	12	66
	374	00	41	36
	378	00	62	58
	379	00	03	38
	317	00	09	81
	316	00	22	26
	314	00	25	36
	313	00	13	58
	312	00	14	05
	51	00	06	67

52	00	10	42
53	00	26	29
57	00	29	39
58	00	14	65
59	00	26	76
68	00	47	71
80	00	23	95
82	00	20	92
83	00	25	27
84	00	23	79
85	00	20	82
86	00	38	00
87	00	05	35
91	00	34	78
90	00	36	17
89	00	24	31
2178	00	20	84

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

पवन कुमार, अवर सचिव

New Delhi, the 21st December, 2017

S.O. 375.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 29 Part-II, Section 3, Sub-section (ii) dated 16.07.2017 to 22.07.2017 vide S.O. Number 1686 dated 05.07.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandal Chilkur, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.11.2017.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Mandal: Chilkur **District: Suryapet** **State: Telangana**

Name of Village	Survey No.	Area		
		Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)
Chilkur	627	00	20	51
	626	00	02	28
	628	00	01	05
	625	00	33	15
	623	00	53	05
	622	00	15	42
	632	00	20	89
	621	00	28	73
	618	00	63	39
	611	00	47	32
	612	00	10	44
	610	00	32	88
	568	00	12	42
	567	00	36	39
	333	00	00	93
	332	00	51	77
	331	00	14	93
	330	00	17	17
	337	00	15	23
	336	00	06	06
	338	00	27	62
	384	00	37	33
	392	00	19	17
	380	00	04	04
	393	00	39	38
	379	00	09	83
	378	00	43	20
	376	00	06	44
	375	00	20	49
	203	00	07	99
	202	00	35	88
	195	00	18	80
	199	00	26	64
	116	00	32	09
	128	00	46	18
	130/1	00	21	64
	129	00	00	26
	35	00	17	80

	125/2	00	28	19
	34	00	12	33
	33	00	28	69
	37	00	10	40
	38	00	22	01
	1390	00	18	69
	1387	00	18	78
	1386	00	00	0.23
	1388	00	36	37
	1382	00	29	59
	1334	00	59	03
	1327	00	39	11
	1326	00	18	82
	1292	00	18	42
	1296	00	46	56
	1295	00	49	49
	1239	00	43	96
	1238	00	29	81
	1237	00	14	37
	1235	00	38	37
	1310	00	21	42
	1234	00	02	74
Kondapuram	179	00	13	98
	180	00	30	65
	182	00	37	23
	185/3	00	53	68
	186	00	40	12
	188	00	11	04
	189/3	00	23	12
	189/2	00	01	13
	189/1	00	00	07
	160/1	00	49	89
	159	00	17	36
	158	00	28	18
	14	00	23	98
	15	00	18	48
	17	00	02	91
	18	00	00	02
	49	00	31	84
	48	00	27	16
	45	00	10	79
	44	00	14	67
	43	00	10	56
	42	00	14	77
	341	00	29	38
	41	00	09	73

	88	00	14	85
	94	00	13	83
	95	00	02	11
	98	00	03	22
Bethavolu	441	00	58	08
	336	00	24	91
	337	00	24	68
	349	00	36	57
	350	00	32	81
	363	00	39	98
	364	00	27	92
	365	00	12	66
	374	00	41	36
	378	00	62	58
	379	00	03	38
	317	00	09	81
	316	00	22	26
	314	00	25	36
	313	00	13	58
	312	00	14	05
	51	00	06	67
	52	00	10	42
	53	00	26	29
	57	00	29	39
	58	00	14	65
	59	00	26	76
	68	00	47	71
	80	00	23	95
	82	00	20	92
	83	00	25	27
	84	00	23	79
	85	00	20	82
	86	00	38	00
	87	00	05	35
	91	00	34	78
	90	00	36	17
	89	00	24	31
	2178	00	20	84

[F. No. R.-11025(11)/3/2018-OR-I/E-21839]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2017

का.आ. 376.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1687 तारीख 05.07.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 29, भाग II, खण्ड 3, उप खण्ड (ii) तारीख 16.07.2017 से 22.07.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल मुनगाला जिला सुर्यापेट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.11.2017 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिष्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलिय और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: मुनगाला **जिला : सुर्यापेट** **राज्य : तेलंगाना**

ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)
गणपवरम	160/4	00	07	09
	160/3	00	08	43
	160/1	00	12	21
	163/2	00	01	58
	163/1	00	25	00
	162/2	00	23	29
	166/2	00	18	76
	166/1	00	10	46
	173	00	02	16
	172	00	25	92
	171/2	00	26	12
	170/2	00	00	72

	170/1	00	02	08
	171/1	00	05	87
नेलमर्री	392/4	00	10	44
	392/3	00	01	26
	392/1	00	08	48
	391/2	00	23	85
	386/1	00	11	46
	384/2	00	28	29
	385/2	00	12	27
	385/1	00	05	64
	383	00	27	19
	382/1	00	10	52
	382/2	00	13	26
	381	00	11	80
	380/2	00	03	11
	380/1	00	11	54
	379/1	00	28	61
	375	00	32	13
	163/2	00	19	08
	163/3	00	06	19
	163/12	00	00	75
	160/1	00	13	03
	159	00	17	36
	158	00	23	38
	157	00	33	73
	156	00	23	97
	140/2	00	04	16
	137	00	02	55
	138/1	00	07	09
	138/2	00	15	69
	139/1	00	15	51
	139/2	00	07	79
	133/1	00	14	03
	133/2	00	15	51
	128/3	00	19	51
	128/2	00	10	11
	129/2	00	24	37
	129/1	00	23	35
	126	00	01	80

	98	00	39	18
	120	00	06	76
	121	00	06	16
	118	00	42	52
	114	00	04	15
	113	00	37	71
	58/1	00	17	01
	59	00	13	01
	57/2	00	06	60
	57/1	00	27	82
	55/2	00	11	61
	55/1	00	09	29
	54	00	16	88
	53	00	34	23
	52	00	39	49
	31	00	24	93
	30	00	20	58
	6/5	00	05	38
	6/1	00	07	71
	6/4	00	11	66
	6/3	00	05	78
	6/2	00	06	58
	5/4	00	05	46
	5/3	00	00	89
	5/2	00	33	61
	5/1	00	00	24

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

पवन कुमार, अवर सचिव

New Delhi, the 21st December, 2017

S.O. 376.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 29 Part-II, Section 3, Sub-section (ii) dated 16.07.2017 to 22.07.2017 vide S.O. Number 1687 dated 05.07.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandal Munagala, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.11.2017.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Mandal: Munagala **District: Suryapet** **State: Telangana**

Name of Village	Survey No.	Area		
		Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)
Ganapavaram	160/4	00	07	09
	160/3	00	08	43
	160/1	00	12	21
	163/2	00	01	58
	163/1	00	25	00
	162/2	00	23	29
	166/2	00	18	76
	166/1	00	10	46
	173	00	02	16
	172	00	25	92
	171/2	00	26	12
	170/2	00	00	72
	170/1	00	02	08
	171/1	00	05	87
Nelamarri	392/4	00	10	44
	392/3	00	01	26
	392/1	00	08	48
	391/2	00	23	85
	386/1	00	11	46
	384/2	00	28	29
	385/2	00	12	27
	385/1	00	05	64
	383	00	27	19
	382/1	00	10	52
	382/2	00	13	26
	381	00	11	80
	380/2	00	03	11
	380/1	00	11	54

	379/1	00	28	61
	375	00	32	13
	163/2	00	19	08
	163/3	00	06	19
	163/12	00	00	75
	160/1	00	13	03
	159	00	17	36
	158	00	23	38
	157	00	33	73
	156	00	23	97
	140/2	00	04	16
	137	00	02	55
	138/1	00	07	09
	138/2	00	15	69
	139/1	00	15	51
	139/2	00	07	79
	133/1	00	14	03
	133/2	00	15	51
	128/3	00	19	51
	128/2	00	10	11
	129/2	00	24	37
	129/1	00	23	35
	126	00	01	80
	98	00	39	18
	120	00	06	76
	121	00	06	16
	118	00	42	52
	114	00	04	15
	113	00	37	71
	58/1	00	17	01
	59	00	13	01
	57/2	00	06	60
	57/1	00	27	82
	55/2	00	11	61
	55/1	00	09	29
	54	00	16	88
	53	00	34	23
	52	00	39	49
	31	00	24	93
	30	00	20	58
	6/5	00	05	38
	6/1	00	07	71
	6/4	00	11	66
	6/3	00	05	78
	6/2	00	06	58
	5/4	00	05	46

	5/3	00	00	89
	5/2	00	33	61
	5/1	00	00	24

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2017

का.आ. 377.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1685 तारीख 05.07.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 29, भाग II, खण्ड 3, उप-खण्ड (**ii**) तारीख 16.07.2017 से 22.07.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल सुर्यापेट जिला सुर्यापेट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.11.2017 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: सुर्यापेट **जिला : सुर्यापेट** **राज्य : तेलंगाना**

ग्राम का नाम	**सर्वे नम्बर**	**क्षेत्रफल**		
		हेक्टेयर	**एयर**	**वर्ग मीटर**
(1)	**(2)**	**(3)**	**(4)**	**(5)**
इमाम्पेट	225	00	62	61
	223	00	04	48
	247	00	19	78
	222	00	25	59
	249	00	40	81
	250	00	35	86
	251	00	33	02

	257	00	54	86
	260	00	25	16
	259	00	06	35
	264	00	28	49
	270	00	44	52
	275	00	26	16
	276	00	35	74
	277	00	01	88
	278	00	40	36
	283	00	34	31
	284	00	07	92
	285	00	25	58
	286	00	00	41
ताल्लाखम्मंपाडु	58	00	46	66
	61	00	39	84
	62	00	25	95
	66	00	09	00
कासराबाद	46	00	20	15
	45	00	18	81
	398	00	28	89
	396	00	09	17
	373	00	17	70
	374	00	43	54
	369	00	49	03
	370	00	34	46
	49	00	09	13
केसारम	239	00	17	28
	242	00	59	60
	243	00	43	03
	255	00	08	27
	256	00	25	92
	257	00	71	12
	259	00	15	89
	262	00	00	58
	263	00	05	98
	266	00	02	73
	265	00	13	97
	270	00	04	52
	269	00	25	87

	272	00	07	78
सुर्यापेट	480	00	13	22
	481	00	40	16
	482	00	34	20
	710	00	54	85
	711	00	29	06
के. टी. अन्नारम	180	00	41	98
	181	00	19	44
	187	00	45	19
	189	00	18	81
	190	00	18	86
	191	00	16	10
	193	00	45	63
	202	00	05	21
	200	00	19	44

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

पवन कुमार, अवर सचिव

New Delhi, the 21st December, 2017

S.O. 377.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 29 Part-II, Section 3, Sub-section (ii) dated 16.07.2017 to 22.07.2017 vide S.O. Number 1685 dated 05.07.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandal Suryapet, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.11.2017.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Mandal: Suryapet **District: Suryapet** **State: Telangana**

Name of Village	Survey No.	Area		
		Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)
Imampet	225	00	62	61
	223	00	04	48
	247	00	19	78
	222	00	25	59
	249	00	40	81
	250	00	35	86
	251	00	33	02
	257	00	54	86
	260	00	25	16
	259	00	06	35
	264	00	28	49
	270	00	44	52
	275	00	26	16
	276	00	35	74
	277	00	01	88
	278	00	40	36
	283	00	34	31
	284	00	07	92
	285	00	25	58
	286	00	00	41
Thallakhammampahad	58	00	46	66
	61	00	39	84
	62	00	25	95
	66	00	09	00
Kasarabad	46	00	20	15
	45	00	18	81
	398	00	28	89
	396	00	09	17
	373	00	17	70
	374	00	43	54
	369	00	49	03
	370	00	34	46
	49	00	09	13
Kesaram	239	00	17	28
	242	00	59	60
	243	00	43	03
	255	00	08	27
	256	00	25	92
	257	00	71	12
	259	00	15	89

	262	00	00	58
	263	00	05	98
	266	00	02	73
	265	00	13	97
	270	00	04	52
	269	00	25	87
	272	00	07	78
Suryapet	480	00	13	22
	481	00	40	16
	482	00	34	20
	710	00	54	85
	711	00	29	06
K T Annaram	180	00	41	98
	181	00	19	44
	187	00	45	19
	189	00	18	81
	190	00	18	86
	191	00	16	10
	193	00	45	63
	202	00	05	21
	200	00	19	44

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2017

का.आ. 378.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1684 तारीख 05.07.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 29, भाग II, खण्ड 3, उप-खण्ड (ii) तारीख 16.07.2017 से 22.07.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल पेन्पहाड़ जिला सुर्यापेट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.11.2017 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिष्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: पेन्पहाड़ **जिला : सुर्यापेट** **राज्य : तेलंगाना**

ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)
चीदेल्ला	433	00	13	15
	432	00	38	86
	431	00	32	73
	430	00	34	33
	429	00	13	23
	452	00	53	30
	453	00	64	20
	406	00	10	64
	460	00	32	48
	461	00	18	47
	377	00	08	94
	375	00	06	81
	372	00	00	96
	373	00	15	40
	371	00	14	18
	357	00	10	73
	358	00	12	31
	353	00	10	91
	347	00	10	22
	348	00	23	63
	340	00	01	32
	341	00	06	13
	343	00	01	35
	342	00	07	11
	328	00	07	19
	329	00	10	67
	323/1	00	14	14
	322	00	18	26

	320	00	06	58
	319	00	02	33
	318	00	16	74
	314	00	12	78
	313	00	03	72
	312	00	25	03
	286	00	48	74
	285	00	10	24
	282	00	24	45
	9	00	37	11
	887	00	27	61
	886	00	46	01
	885	00	47	79
	884	00	35	71
	881	00	26	78
गाजुलमल्कापूरम	244/1	00	46	98
	241	00	51	49
	242	00	20	11
	239	00	02	51
माचारम	164	00	04	09
	163	00	30	73
	166	00	23	71
	161	00	19	97
	151	00	34	15
	150	00	37	41
	149	00	32	27
	148	00	29	64
पेन्पहाड़	92	00	65	38
	94/1	00	11	22
	94/39	00	09	69
	94/43	00	06	69
	94/42	00	10	48
	81	00	03	53
	82	00	01	91
	80	00	56	46
	94/23	00	06	12
	94/22	00	08	28
	94/25	00	06	10
	94/37	00	31	40

	94/17	00	21	15
	74	00	19	53
	73	00	02	44
महम्मदापुरम	108/4	00	01	02
	108/3	00	09	83
	108/2	00	00	78
	109	00	46	13
	130	00	01	75
	115	00	03	95
	129	00	14	05
	128	00	28	51
	143	00	24	80
	146/25	00	17	13
	146/1	00	21	72
सिंगारेडडी पालेम	182	00	37	92
	181	00	04	36
	180/10	00	00	06
	180/11	00	11	04
	180/1	00	22	91
	180/16	00	04	39
	180/31	00	11	73
	180/32	00	12	07
	175	00	18	62
	176	00	08	26
	180/34	00	16	63
	180/35	00	03	70
	180/37	00	07	80
	180/38	00	13	45
	58	00	24	01
	57	00	61	71
	73	00	16	43
	76	00	33	29
	89	00	17	33
	85	00	08	23
	97	00	21	03
	98	00	18	85
	146	00	15	13
	105/5	00	01	29
	105/11	00	03	29

	118	00	34	92
	119	00	31	47
	121	00	16	76
	114	00	15	56
	113	00	01	91
	125	00	08	69
	126	00	10	74
	128	00	06	73

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

पवन कुमार, अवर सचिव

New Delhi, the 21st December, 2017

S.O. 378.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 29 Part-II, Section 3, Sub-section (ii) dated 16.07.2017 to 22.07.2017 vide S.O. Number 1684 dated 05.07.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandal Penpahad, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.11.2017.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Mandal: Penpahad **District: Suryapet** **State: Telangana**

Name of Village	Survey No.	Area		
		Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)
Cheedella	433	00	13	15
	432	00	38	86
	431	00	32	73
	430	00	34	33
	429	00	13	23

	452	00	53	30
	453	00	64	20
	406	00	10	64
	460	00	32	48
	461	00	18	47
	377	00	08	94
	375	00	06	81
	372	00	00	96
	373	00	15	40
	371	00	14	18
	357	00	10	73
	358	00	12	31
	353	00	10	91
	347	00	10	22
	348	00	23	63
	340	00	01	32
	341	00	06	13
	343	00	01	35
	342	00	07	11
	328	00	07	19
	329	00	10	67
	323/1	00	14	14
	322	00	18	26
	320	00	06	58
	319	00	02	33
	318	00	16	74
	314	00	12	78
	313	00	03	72
	312	00	25	03
	286	00	48	74
	285	00	10	24
	282	00	24	45
	9	00	37	11
	887	00	27	61
	886	00	46	01
	885	00	47	79
	884	00	35	71
	881	00	26	78
Gajulamalkapuram	244/1	00	46	98
	241	00	51	49
	242	00	20	11
	239	00	02	51
Macharam	164	00	04	09
	163	00	30	73
	166	00	23	71
	161	00	19	97

	151	00	34	15
	150	00	37	41
	149	00	32	27
	148	00	29	64
Penpahad	92	00	65	38
	94/1	00	11	22
	94/39	00	09	69
	94/43	00	06	69
	94/42	00	10	48
	81	00	03	53
	82	00	01	91
	80	00	56	46
	94/23	00	06	12
	94/22	00	08	28
	94/25	00	06	10
	94/37	00	31	40
	94/17	00	21	15
	74	00	19	53
	73	00	02	44
Mohammadapur	108/4	00	01	02
	108/3	00	09	83
	108/2	00	00	78
	109	00	46	13
	130	00	01	75
	115	00	03	95
	129	00	14	05
	128	00	28	51
	143	00	24	80
	146/25	00	17	13
	146/1	00	21	72
Singareddy Palem	182	00	37	92
	181	00	04	36
	180/10	00	00	06
	180/11	00	11	04
	180/1	00	22	91
	180/16	00	04	39
	180/31	00	11	73
	180/32	00	12	07
	175	00	18	62
	176	00	08	26
	180/34	00	16	63
	180/35	00	03	70
	180/37	00	07	80
	180/38	00	13	45
	58	00	24	01
	57	00	61	71

73	00	16	43
76	00	33	29
89	00	17	33
85	00	08	23
97	00	21	03
98	00	18	85
146	00	15	13
105/5	00	01	29
105/11	00	03	29
118	00	34	92
119	00	31	47
121	00	16	76
114	00	15	56
113	00	01	91
125	00	08	69
126	00	10	74
128	00	06	73

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 21 दिसम्बर, 2017

का.आ. 379.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1688 तारीख 05.07.2017 जिसका प्रकाशन भारत के राजपत्र संख्या 29, भाग II, खण्ड 3, उप खण्ड (ii) तारीख 16.07.2017 से 22.07.2017 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल कोदाडा जिला सुर्यापेट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पेरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे "पारादीप-हैदराबाद पाइपलाइन परियोजना" के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 23.11.2017 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी नें केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिष्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पेरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पेरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

मंडल: कोदाडा **जिला :** सुर्यापेट **राज्य : तेलंगाना**

ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)
कूचिपूडि	119	00	14	73
	122	00	00	43
	121	00	02	74
	123	00	46	94
	103	00	08	35
	104	00	02	46
	105	00	14	19
	99	00	14	34
	76	00	34	92
	77	00	17	66
	78	00	00	03
	80	00	11	98
	79	00	15	46
	84	00	03	81
	64	00	15	91
	62	00	14	35
	56	00	22	99
	58	00	05	71
	57	00	06	76
	37	00	03	36
	36	00	15	77
	635	00	35	29
	634	00	05	21
	636	00	00	17
	637	00	28	35
	615	00	05	56
कापुगाल्लु	441	00	00	03
	523/1	00	39	82
	523/2	00	12	89
	524/1	00	03	81
	522/1	00	56	16
	561/1	00	37	83
	527	00	00	96
	560	00	25	87

	563	00	00	06
	564	00	51	11
	565	00	33	13
	624	00	38	09
	623	00	47	76
	622	00	27	17
	619/1	00	07	66
	621/1	00	23	92
	651/1	00	35	57
	653/1	00	31	76
	655	00	25	98
	656	00	22	59
	662	00	10	21
	661	00	21	26
तोगर्राई	170	00	13	54
	169	00	17	21
	177	00	57	99
	166	00	17	38
	165	00	18	21
	163	00	30	09
	162	00	30	06
	161	00	43	83
	159	00	36	44
	158	00	53	44
	155	00	29	58
	104	00	19	55
	109	00	64	62
	111	00	15	21
	100	00	52	47

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

पवन कुमार, अवर सचिव

New Delhi, the 21st December, 2017

S.O. 379.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 29 Part-II, Section 3, Sub-section (ii) dated 16.07.2017 to 22.07.2017 vide S.O. Number 1688 dated 05.07.2017 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandal Kodad, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip–Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 23.11.2017.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

Mandal: Kodad **District: Suryapet** **State: Telangana**

Name of Village	Survey No.	Area		
		Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)
Kuchipudi	119	00	14	73
	122	00	00	43
	121	00	02	74
	123	00	46	94
	103	00	08	35
	104	00	02	46
	105	00	14	19
	99	00	14	34
	76	00	34	92
	77	00	17	66
	78	00	00	03
	80	00	11	98
	79	00	15	46
	84	00	03	81
	64	00	15	91
	62	00	14	35
	56	00	22	99
	58	00	05	71
	57	00	06	76
	37	00	03	36
	36	00	15	77
	635	00	35	29
	634	00	05	21
	636	00	00	17
	637	00	28	35

	615	00	05	56
Kapugallu	441	00	00	03
	523/1	00	39	82
	523/2	00	12	89
	524/1	00	03	81
	522/1	00	56	16
	561/1	00	37	83
	527	00	00	96
	560	00	25	87
	563	00	00	06
	564	00	51	11
	565	00	33	13
	624	00	38	09
	623	00	47	76
	622	00	27	17
	619/1	00	07	66
	621/1	00	23	92
	651/1	00	35	57
	653/1	00	31	76
	655	00	25	98
	656	00	22	59
	662	00	10	21
	661	00	21	26
Togarrai	170	00	13	54
	169	00	17	21
	177	00	57	99
	166	00	17	38
	165	00	18	21
	163	00	30	09
	162	00	30	06
	161	00	43	83
	159	00	36	44
	158	00	53	44
	155	00	29	58
	104	00	19	55
	109	00	64	62
	111	00	15	21
	100	00	52	47

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 7 फरवरी, 2018

का.आ. 380.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना जिसका प्रकाशन भारत के राजपत्र संख्या 35 दिनांक 02.09.2017 का.आ संख्या 2016 दिनांक 23.08.2017, भाग II, खण्ड 3, उप-खण्ड (ii) में किया गया है। इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट पंजाब राज्य की तहसील नवांशहर, जिला शहीद भगत सिंह नगर तथा तहसील गढ़शंकर, जिला होशियारपुर की भूमि में, पंजाब राज्य के गाँव : झुगियां, जिला शहीद भगत सिंह नगर से हिमाचल प्रदेश के गाँव : पेखुबेला, जिला उना तक पैट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑइल कार्पोरेशन लिमिटेड द्वारा पीएजेपीएल - उना ब्रांच पाइपलाइन परियोजना के सम्बंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी।

और उक्त राजपत्र अधिसूचनाओं की प्रतियाँ जनता को तारीख 11.12.2017 तक उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अत: अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कार्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाईन से सम्बन्धित किसी भी मामलें पर केन्द्रीय सरकार के विरुद्ध कोई वाद - दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

राज्य : पंजाब

क्रं. सं.	जिला	तहसील	गाँव का नाम	हदबस्त नं	खसरा सं.	क्षेत्रफल		
						हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8	9
1	एस. बी. एस. नगर	नवांशहर	लंगरोआ	137	70 // 9/2/1	00	00	20
					70 // 9/2/2	00	00	20
					70 // 9/1	00	01	01
					70 // 2/2/1	00	00	99
					70 // 2/1/2	00	00	20
					65 // 23/2/2	00	00	20
					65 // 23/1	00	00	56
					65 // 18	00	04	01
					65 // 13	00	09	15
					65 // 8/2	00	11	07
					65 // 8/1	00	00	20
					65 // 3/2	00	07	59
					65 // 4/1	00	03	11

64 // 23/2/2	00	00	58
64 // 23/2/1	00	01	07
64 // 24/1	00	08	85
64 // 24/2	00	00	36
64 // 17	00	10	76
64 // 14/1	00	10	87
64 // 7/3	00	00	80
64 // 7/2	00	02	60
64 // 7/1	00	06	67
64 // 4/1	00	10	84
56 // 24/2	00	00	61
56 // 24/1	00	00	20
56 // 24/3	00	09	47
56 // 17/1	00	09	77
56 // 17/2	00	01	14
56 // 14	00	10	56
56 // 7/3	00	10	72
56 // 7/2	00	00	20
56 // 4/3	00	07	50
56 // 4/2	00	03	30
53 // 24/2	00	11	07
53 // 17/1	00	10	76
53 // 14/2	00	10	64
53 // 7/2/2	00	11	27
53 // 4/2/1	00	02	31
53 // 4/1	00	08	42
38 // 24/2	00	04	91
38 // 24/1	00	06	27
38 // 17	00	11	07
38 // 14	00	10	89
38 // 7	00	05	59
380	00	00	72
38 // 6/2	00	00	20
38 // 4/3	00	00	27
38 // 4/2	00	10	77
34 // 24/3	00	04	72
34 // 24/2	00	05	83
34 // 17/1	00	09	01
34 // 17/2	00	00	22

					34 // 27	00	00	20
					34 // 14/3	00	09	18
					34 // 14/1	00	00	20
					34 // 7	00	10	39
					34 // 4	00	10	53
					19 // 24/2	00	10	35
					19 // 17	00	09	50
					19 // 14	00	10	62
					19 // 7/1	00	10	02
					19 // 4/1	00	11	67
					16 // 24	00	04	12
2	होशियारपुर	गढ़शंकर	सिम्बली	159	84 // 15	00	03	42
					84 // 6	00	09	26
					84 // 5	00	01	32
					85 // 10	00	01	83
					85 // 1	00	10	32
					77 // 21	00	11	24
					77 // 20	00	11	50
					77 // 19	00	00	20
					77 // 11	00	05	82
					77 // 12	00	06	38
					77 // 9	00	11	11
					77 // 2	00	11	84
					70 // 22	00	04	32
					70 // 26	00	01	65
					70 // 23	00	02	78
					70 // 18	00	11	70
					70 // 19	00	00	20
					70 // 13	00	10	79
					70 // 7	00	00	88
					70 // 3	00	01	93
					70 // 4	00	10	12
					52 // 24	00	11	01
					52 // 17	00	12	28
					52 // 16	00	00	20
					52 // 15	00	04	45
					52 // 26	00	00	20
					47 // 20	00	10	91
					47 // 11	00	12	21

					47 // 12	00	00	20
					47 // 10	00	03	96
					47 // 9	00	07	01
					47 // 2/1	00	00	20
					47 // 2/2	00	10	31
					26 // 22/1	00	07	33
					26 // 22/2	00	04	06
					26 // 19/1	00	01	29
					26 // 18	00	05	28
					26 // 13/2	00	04	84
					26 // 13/1	00	06	90
					26 // 8	00	10	62
					26 // 3/2/1	00	02	56
					26 // 3/1	00	02	02
					26 // 4/1	00	03	86
					23 // 24/1/2	00	00	61
					23 // 24/1/1	00	11	06
					23 // 17/2	00	04	44
					23 // 17/1	00	03	30
					23 // 14	00	08	48
					23 // 15	00	01	38
					23 // 6/2	00	02	15
					23 // 6/1	00	08	58
					23 // 7	00	00	58
					23 // 5	00	05	25
3	होशियारपुर	गढ़शंकर	कुकर मजारा	248	832	00	04	62
					831	00	06	70
					830	00	03	88
					829	00	08	97
					1375/840	00	01	74
					827	00	06	78
					1207/841	00	01	91
					1205/841	00	00	20
					1206/841	00	00	20
					1210/842	00	01	06
					1211/842	00	01	46
					824	00	04	46
					1203/821	00	01	17
					1204/821	00	02	18

					822	00	02	82
					823	00	00	83
					816	00	01	54
					817	00	08	26
					812	00	00	20
					818	00	10	65
					805	00	11	11
					806	00	10	88
					305	00	08	41
					307	00	03	84
					308	00	04	90
					309	00	03	09
					324	00	11	04
					323	00	10	84
					322	00	10	94
					1332/325	00	11	03
					1331/325	00	00	62
					1333/373	00	00	60
					1334/373	00	05	53
					375	00	02	04
4	होशियारपुर	गढ़शंकर	मैरा	481	30 // 2/6	00	00	64
					30 // 2/5	00	00	48
					30 // 2/4	00	02	02
					30 // 2/3	00	01	56
					21 // 19/1	00	02	60

[फा. सं. आर-11025(11)/1/2018-ओआर-I/ई-21789]

पवन कुमार, अवर सचिव

New Delhi, the 7th February, 2018

S.O. 380.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette No. 35 dated 02.09.2017, S.O. No. 2016 dated 23.08.2017 Part-II, section 3, sub-section (ii) issued under sub-section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Tehsil – Nawanshahr of District Shahid Bhagat Singh Nagar and Tehsil – Garhshankar of District Hoshiarpur in Punjab State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum product from village Jhungian, District Shahid Bhagat Singh Nagar in the State of Punjab to village Pekhubela, District Una in the State of Himachal Pradesh by the Indian Oil Corporation Limited for implementing the "PAJPL - Una Branch pipeline project".

And whereas the copies of the said Gazette notification were made available to the public on 11.12.2017.

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, has submitted his report to Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

State : Punjab

Sr. No.	Name of District	Name of Tehsil	Name of Village	Hadbast No.	Khasara No.	Area		
						Hectare	Are	Sq. mtr.
1	2	3	4	5	6	7	8	9
1	S.B.S. Nagar	Nawanshahr	Langroya	137	70 // 9/2/1	00	00	20
					70 // 9/2/2	00	00	20
					70 // 9/1	00	01	01
					70 // 2/2/1	00	00	99
					70 // 2/1/2	00	00	20
					65 // 23/2/2	00	00	20
					65 // 23/1	00	00	56
					65 // 18	00	04	01
					65 // 13	00	09	15
					65 // 8/2	00	11	07
					65 // 8/1	00	00	20
					65 // 3/2	00	07	59
					65 // 4/1	00	03	11
					64 // 23/2/2	00	00	58
					64 // 23/2/1	00	01	07
					64 // 24/1	00	08	85
					64 // 24/2	00	00	36
					64 // 17	00	10	76
					64 // 14/1	00	10	87
					64 // 7/3	00	00	80
					64 // 7/2	00	02	60
					64 // 7/1	00	06	67
					64 // 4/1	00	10	84
					56 // 24/2	00	00	61
					56 // 24/1	00	00	20
					56 // 24/3	00	09	47
					56 // 17/1	00	09	77
					56 // 17/2	00	01	14
					56 // 14	00	10	56
					56 // 7/3	00	10	72
					56 // 7/2	00	00	20

					56 // 4/3	00	07	50
					56 // 4/2	00	03	30
					53 // 24/2	00	11	07
					53 // 17/1	00	10	76
					53 // 14/2	00	10	64
					53 // 7/2/2	00	11	27
					53 // 4/2/1	00	02	31
					53 // 4/1	00	08	42
					38 // 24/2	00	04	91
					38 // 24/1	00	06	27
					38 // 17	00	11	07
					38 // 14	00	10	89
					38 // 7	00	05	59
					380	00	00	72
					38 // 6/2	00	00	20
					38 // 4/3	00	00	27
					38 // 4/2	00	10	77
					34 // 24/3	00	04	72
					34 // 24/2	00	05	83
					34 // 17/1	00	09	01
					34 // 17/2	00	00	22
					34 // 27	00	00	20
					34 // 14/3	00	09	18
					34 // 14/1	00	00	20
					34 // 7	00	10	39
					34 // 4	00	10	53
					19 // 24/2	00	10	35
					19 // 17	00	09	50
					19 // 14	00	10	62
					19 // 7/1	00	10	02
					19 // 4/1	00	11	67
					16 // 24	00	04	12
2	Hoshiarpur	Garhshankar	Simbli	159	84 // 15	00	03	42
					84 // 6	00	09	26
					84 // 5	00	01	32
					85 // 10	00	01	83
					85 // 1	00	10	32
					77 // 21	00	11	24
					77 // 20	00	11	50
					77 // 19	00	00	20
					77 // 11	00	05	82
					77 // 12	00	06	38
					77 // 9	00	11	11
					77 // 2	00	11	84
					70 // 22	00	04	32
					70 // 26	00	01	65

					70 // 23	00	02	78
					70 // 18	00	11	70
					70 // 19	00	00	20
					70 // 13	00	10	79
					70 // 7	00	00	88
					70 // 3	00	01	93
					70 // 4	00	10	12
					52 // 24	00	11	01
					52 // 17	00	12	28
					52 // 16	00	00	20
					52 // 15	00	04	45
					52 // 26	00	00	20
					47 // 20	00	10	91
					47 // 11	00	12	21
					47 // 12	00	00	20
					47 // 10	00	03	96
					47 // 9	00	07	01
					47 // 2/1	00	00	20
					47 // 2/2	00	10	31
					26 // 22/1	00	07	33
					26 // 22/2	00	04	06
					26 // 19/1	00	01	29
					26 // 18	00	05	28
					26 // 13/2	00	04	84
					26 // 13/1	00	06	90
					26 // 8	00	10	62
					26 // 3/2/1	00	02	56
					26 // 3/1	00	02	02
					26 // 4/1	00	03	86
					23 // 24/1/2	00	00	61
					23 // 24/1/1	00	11	06
					23 // 17/2	00	04	44
					23 // 17/1	00	03	30
					23 // 14	00	08	48
					23 // 15	00	01	38
					23 // 6/2	00	02	15
					23 // 6/1	00	08	58
					23 // 7	00	00	58
					23 // 5	00	05	25
3	Hoshiarpur	Garhshankar	Kukar Majara	248	832	00	04	62
					831	00	06	70
					830	00	03	88
					829	00	08	97
					1375/840	00	01	74
					827	00	06	78
					1207/841	00	01	91

					1205/841	00	00	20
					1206/841	00	00	20
					1210/842	00	01	06
					1211/842	00	01	46
					824	00	04	46
					1203/821	00	01	17
					1204/821	00	02	18
					822	00	02	82
					823	00	00	83
					816	00	01	54
					817	00	08	26
					812	00	00	20
					818	00	10	65
					805	00	11	11
					806	00	10	88
					305	00	08	41
					307	00	03	84
					308	00	04	90
					309	00	03	09
					324	00	11	04
					323	00	10	84
					322	00	10	94
					1332/325	00	11	03
					1331/325	00	00	62
					1333/373	00	00	60
					1334/373	00	05	53
					375	00	02	04
4	Hoshiarpur	Garhshankar	Maira	481	30 // 2/6	00	00	64
					30 // 2/5	00	00	48
					30 // 2/4	00	02	02
					30 // 2/3	00	01	56
					21 // 19/1	00	02	60

[F. No. R-11025(11)/1/2018-OR-I/E-21789]

PAWAN KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 20 फरवरी, 2018

का.आ. 381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **गोदावरिखानी** के पंचाट **(संदर्भ संख्या–15/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/2/2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 20th February, 2018

S.O. 381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 15/2011)** of the Central Government Industrial Tribunal-cum-Labour Court, **Godavarikhani**, as shown in the Annexure, in the Industrial Dispute between the management of **M/s. Singareni Collieries Company Ltd.**, and their workmen, received by the Central Government on 09/02/2018.

[No. L-22013/01/2018-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI

Present:- SRI SAMBASIVA RAO NAIDU,

Chairman-cum-Presiding Officer.

MONDAY, ON THIS THE 28th DAY OF AUGUST, 2017

INDUSTRIAL DISPUTE No.15 OF 2011

Between:-

Vydya Vishnu, S/o.Late Srihari, Age 24 years, Occ:Ex.Badli Filler, E.No.2116035, R/o.Q.No.ST2-2736, 8 Incline colony, Godavarikhani, District Karimnagar.

--- Petitioner/Workman.

AND

The General Manager, Singareni Collieries Company Ltd.,

Bellampalli Division, Adilabad District.

--- Respondent/Management.

This case coming before me for final hearing in the presence of Sri P.Vishveswar Rao, Advocate for the petitioner and of Sri D.Krishna Murthy, Advocate for the respondent; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This is a petition filed by the petitioner/workman under section 2A(2) of Industrial Disputes Act which herein after will be referred as ID Act for convenience sake. The petitioner has filed this petition with a prayer to set aside the order bearing No.BPA/PER/129/1633, dated 09-05-2008 of the respondent herein by which the petitioner was dismissed from service and for direction to the respondent to reinstate the petitioner into service with continuity of service and all attendant benefits and also back wages. The following is the brief case of petitioner according to his petition.

2. The petitioner's father by name Srihari worked as shaft sinking mazdoor in the respondent organization. He died while he in service due to ill-health. The petitioner was appointed as Badli filler on compassionate grounds on 04-10-2005. However the petitioner was dismissed from service by proceedings, dated 09-05-2008 and the grounds for dismissal of service was the irregular attendance /musters maintained by the petitioner herein. The petitioner states that he did not commit any irregularity he was not guilty of any severe misconduct. But he was suspended on the ground of shortage of attendance till 2007. A charge sheet was served on him for which he has submitted his explanation and by considering the explanation the petitioner was taken into service again in 2008 and a show cause notice was served on the petitioner followed by the false enquiry. The petitioner has participated in the enquiry but the enquiry officer did not consider the documentary evidence placed by the petitioner and submitted his report finding the petitioner guilty and on the basis of the said report the petitioner was dismissed from service by the above referred proceedings. The petitioner states that he is from a poor family he is the only bread winner of the entire family. He has no other source of income and he could not secure any alternative employment. The mother of the petitioner by name Sarojana went in

severe shock after the death of her husband. She was bed ridden for a period of (5) years, she was unable to move without the help of petitioner, under the said compelled circumstances he had to accompanied his mother at each and every movement. The petitioner being the only son of his parents was under a moral and legal duty to serve his parents there by the was compelled to be away from duties. However, he has intimated about his absence to the superiors orally from time to time but his information was not considered. The petitioner further states that due to continues sleepless nights and mental disturbance he became seek and undergone treatment but this was also not considered by the management. The petitioner has produced the medical records and other relevant documents but the enquiry officer and respondent did not give any credibility and removed the petitioner from service. The petitioner was not afforded reasonable opportunity to prove the cause for his absence. The enquiry officer did not follow the procedure while conducting the enquiry. The respondent did not implement its own circulars. The dismissal order attaches stigma on the petitioner though there was no fault on his side. Thereby he sought for setting aside the order and for his reinstatement into the service with all attendant benefits, continuity of service, back wages etc.

3. The respondent has opposed this petition and a detailed counter has been filed by the respondent. According to the said counter it is stated that the respondent is a Government company enlarged under the provisions of Companies Act, 1969 for carrying out of mining and selling of coal. It is a central subject and the appropriate Government for this respondent is Central Government. According to Section 7 A (1) of ID Act the appropriate Government may by notification in the official gazette, constitute one or more Industrial Tribunals for the adjudication of the Industrial Disputes relating to any matter, whether specified in schedule 2 or 3. The Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of Industrial Disputes. The petitioner ought to have approached the said Tribunal for the redressal of grievance, if any. But the petitioner avoided filing his petition before the Tribunal established by the Central Government for the reasons best known to him. The respondent further stated that the petitioner who was provided with employment as Badli Filler on compassionate grounds never maintained minimum musters as required under the provisions of Mines Act, 1952. According to Section 52 of Mines Act an underground employee is required to put minimum musters of 190 in a calendar year. The petitioner being underground employee is expected to put in minimum 190 musters but the petitioner being a chronic absentee had put only 50 musters in 2007. Therefore, a charge sheet was issued under clause 25.25 of Company's standing orders vide order dated 05-02-2008. The respondent states that the petitioner put in 30 musters in 2007 and in 2008 up to March he put only 18 musters. Since the petitioner could not put in the minimum required musters it amounts to misconduct under Company's standing orders clause No.25.25. A charge sheet was served upon the petitioner. He was never regular in his service. After conducting an enquiry the respondent took a lenient view initially and suspended him for a period of (10) days. A departmental enquiry was ordered against the petitioner. A charge sheet issued on 05-02-2008 but the petitioner failed to give any explanation. A notice about the enquiry was served on the petitioner on 01-04-2008 directing him to attend the enquiry scheduled on 04-04-2008. The petitioner attended the enquiry proceedings. The enquiry officer conducted enquiry according to the principles of natural justice by giving full opportunity to the petitioner. The petitioner participated in the enquiry and admitted guilt to the charges and assured the respondent that he will improve his attendance in future. The enquiry officer has submitted his report on 05-04-2008 holding the charge against the petitioner was proved. A show cause notice dated 19-04-2008 with the copy of enquiry proceedings was served on the petitioner. The petitioner submitted his representation but there are no merits. Therefore, the petitioner was dismissed from service w.e.f., 14-05-2008.

4. The respondent further states that the grounds set forth by the petitioner in para No.3 (a) to 3 (m) are purely personal reasons of the petitioner and respondent is no way connected with the same. It is also stated in the counter that there are more than 67 thousand employees in the respondent including workmen, executives, and supervisors. The production results will depend upon the each and every individual. If any one remains absent without prior sanction of leave or without any justified cause, the work to be performed get affected. Such unauthorized absence creates sudden void, which at times and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. Therefore, the respondent compelled to take severe action against the unauthorized absence. The petitioner is one such unauthorized absentee having 50 musters in 2007 and failed to perform and worked even after in the year 2007. The respondent states that petitioner is not entitled to any such relief and thereby prayed for dismissal of the petition.

5. When the matter is pending before the court the petitioner disputed the validity of the domestic enquiry and after hearing both the parties my predecessor-in-office court passed an order on 15-06-2015 holding that the enquiry is invalid and respondent was given opportunity to adduce oral and documentary evidence to specify the charge leveled against the petitioner. In view of the said order the respondent Management examined (2) witnesses i.e., MW-1 and 2 and marked Ex.M-1 to M-3. The petitioner did not adduce any oral evidence but marked Ex.W-1 to W-4.

6. I have heard both counsels for petitioner as well as counsel for the respondent company. The learned counsel for the petitioner represents that the petitioner is the only son to his parents he got employment on compassionate grounds after the death of his father. Even though the petitioner got employment, his mother got sick there was no other male person to take care of the lady. The petitioner was forced to attend his mother and in view of his continuing service of his mother he too became sick and not in a position to attend the duties. In those circumstances the petitioner was removed from service it is nothing but victimizing a son who served his mother till her death and sought for setting

aside the order and also for reinstating the petitioner with all benefits and back wages. The counsel for the respondent represents that the petitioner maintained poor attendance and he never improved the attendance beyond 50 musters. Even after issued charge sheet the petitioner was continued this attitude. He did not cross examine the witness in the domestic enquiry he has accepted the charges and sought for lenient view as but after thought the petitioner produced some fake medical records only to show that he was sick for 65 days but this contention has been negatived by the evidence of MW-1 and 2. In fact the documents marked as Ex.M-1 to M-3 proves the petitioner never obtained any treatment nor he was hospitalized for the alleged sick. This is only a after thought to avoid his liability thereby he prayed for dismissal of the petition.

Now the point for consideration is

1. ***Whether the order of dismissal order passed against the petitioner is irregular, if so liable to be set aside?***
2. ***Whether the petitioner is entitled to reinstatement to the service with back wages and attendant benefits etc?***
3. ***To what relief?***

POINTS No.1 & 2:

7. The petitioner herein was appointed as Badli filler on compassionate grounds after the death of his father on 04-10-2005. He was dismissed from service vide proceedings dated 09-05-2008 on the grounds of unauthorized absence/failure of the petitioner to maintain minimum musters of 190 per year. The petitioner claimed that soon after the death of his father though he was appointed as Badli Filler his mother fell sick and he was forced to look after her thereby he was unable to maintain the required attendance. According to the petition filed before this court he has specifically pleaded that his mother was bed ridden for (5) years. She was a paralysis patient he is the only person to look after his mother. Thereby he fell sick and he was unable to attend the duties. In Para No.3(e) at page No.2 of his petition the petitioner claims that due to continues sleepless nights and mental disturbance he became sick and undergone treatment. In order to prove the treatment he has produced medical certificate but they were not considered by the respondent. On the other hand the respondent states that from the beginning the petitioner was unable to maintain minimum required attendance as Badli Filler who is supposed to work underground. He has to put in minimum 190 musters in a calendar year but during October, 2005 to December, 2005 he attended 30 musters whereas it was (22) for entire 2006 and (50) in 2007. The respondent has furnished the details of the attendance of the petitioner and further pleaded that in view of the continuous absence the petitioner was directed to submit his explanation and initially a lenient view was taken by suspending him for a period of (10) days from 25-08-2007 to 03-09-2007 but after domestic enquiry which was proved against the petitioner a show cause notice was served on the petitioner and as there was no explanation he was removed from service.

According to the plea taken by the respondent and as per the documents produced before this court it appears that a regular departmental enquiry was conducted against the petitioner and the petitioner has participated in the enquiry but he did not choose to cross examine the witness and admitted his absence. However, during the cross examination the petitioner has disputed the validity of the domestic enquiry thereby an order was passed by this court holding that the enquiry was invalid. In view of the said order the respondent examined the Medical Officer, Area Hospital, Ramagundam as MW-1 and one G.Tulasi Rao retired Officer of SCCL who worked as Deputy Personal Manager who has conducted domestic enquiry against the petitioner as MW-2. Ex.M-1 to M-3 are marked on behalf of the management. The petitioner though did not adduce any oral evidence produced Ex.W-1 to W-4. Since the domestic enquiry was held invalid, the evidence of MW-2 assumes great importance. According to the affidavit filed by MW-2 it is stated that he worked as Deputy Personal Manager, SCCL, Bellampalli Area, he was appointed as enquiry officer to conduct domestic enquiry against the petitioner herein since he conducted enquiry he has got acquaintance with the facts of the case. The petitioner/workman was absent for duty in 2007 without any leave he had put in only 50 musters during 2007. A charge sheet was served on the petitioner under clause 25.25 of Company's standing orders for habitual absence. MW-2 has states that he conducted enquiry duly following principles of natural justice by giving the petitioner full and fair opportunity to defend his case. MW-2 further deposed that the petitioner submitted fit and unfit slips in 2007 namely (i) 17-10-2007 to 30-10-2007 (14 days), (ii) 24-11-2007 to 03-12-2007 (10 days) (iii) 08-12-2007 to 10-12-2007 (3 days). They were considered at the time of enquiry. He has also deposed that during the enquiry the petitioner admitted that he failed to attend the duties on all other days and he has submitted sick certificate for only 27 days. He has admitted that he did not report at any company hospital on other days. According to this witness the claim of petitioner that he has submitted fit and unfit slips for 65 days is only after thought. (During the enquiry before the court the petitioner took a plea that he was unable to attend duties due to ill-health and he has submitted fit and unfit slips for 65 days from SCCL hospital, Ramagundam but those slips were not considered by the enquiry officer).

8. The learned counsel for the petitioner cross examined this witness and only (2) questions were put to this witness, MW-2 stated that he retired from service on 30-06-2008 he conducted enquiry record on the unauthorized absence of the petitioner who was working in Goleti Mine, Bellampalli. The petitioner did not submit any documents during the enquiry for the absence of (65) days. Except this nothing could be elicit from MW-2 to show that the enquiry officer

failed to conduct proper enquiry and to show that the enquiry officer did not follow the principles of natural justice. The above (2) questions may not prove that the petitioner was denied fair and reasonable opportunity to defend his case.

Apart from this evidence the respondent/management has examined one Dr.E.Rajeshwar, Medical Officer, Area Hospital, Ramagundam to show that the fit and unfit medical slips supposed to be obtained by the petitioner for his alleged ill-health or fake and there was such record in the hospital. According to the affidavit filed by MW-1 the copy of fit certificate with No.5569 from 15-02-2007 to 20-04-2007 has been verified with the register maintained at the Area Hospital, Ramagundam. There is no entry pertaining to the fit certificate in the relevant register. According to the register the serial number contains (5) digits like 46801 to 47400 whereas the copy of the fit certificate submitted by the petitioner contains only (4) digits thereby it clearly shows that the certificate was not issued from Area Hospital, Ramagundam and it is not a genuine one. This witness further deposed that according to the company procedure opted by the respondent an employee will be made fit and unfit only on the respective Area Hospital where he is posted to work. Only in case of emergency a person working in another area will be declared fit or unfit by the medical officer. According to the certificate produced by the petitioner the alleged disease was mere fever so the question of petitioner admission to Area Hospital, Ramagundam while he was working at Bellampalli does not arise. Therefore, according to the evidence of this witness the fit/unfit certificates produced by the petitioner are not tallying with the relevant registers which are maintained by the Area Hospital, Ramagundam. In support of this claim the petitioner has produced Ex.M-1 to M-3 the registers from Area Hospital, Ramagundam. The learned counsel for the respondent elicited from MW-1 that the doctor who signed the receipts (Ex. M-1 to M-3) retired from service. This witness is able to identify the signature of doctor who maintained register and according to these records the petitioner was not on sick leave from 15-02-2007 to 20-04-2007. Ex.M-1 is the register maintained by the Area Hospital, Ramagundam for the period from 10-11-2006 to 22-11-2007. Ex.M-2 is the fit certificate from 22-03-2007 to 16-07-2007 and Ex.B-3 is another register for the period from 01-12-2006 to 31-12-2008. According to this witness every workman who visited the SCCL Hospital with any disease will be initially declared as unfit to attend duties and the information will be sent to the concerned mine. During the cross examination of this witness the learned counsel for the petitioner/workman made attempt to show that this witness is not a proper person to give evidence on behalf of the management. The registers vide Ex.B-1 to B-3 were prepared by clerical staff and the witness is deposing falsehood even though the petitioner was admitted at hospital maintained by SC authorities and obtained treatment for the alleged illness. However, MW-1 denied the suggestion given by the counsel for the petitioner. A suggestion was given to the witness that there was departmental enquiry against the doctors and clerical staff about the illegal activities, misuse of their official power and they were placed under suspension for which witness says that he has no knowledge about the enquiry proceedings and denied the suggestion that he is speaking falsehood. Even if there was such enquiry the petitioner is not in a position to say as to how those enquiry proceedings will help him when his absence was due to alleged illness. Since the petitioner took stand about his illness and since he questions the domestic enquiry the evidence of MW-1 and MW-2 assumes importance. MW-2 categorically deposed that the petitioner at the time of domestic enquiry did not produce any such medical certificate and it was not his case that the absence was due to alleged ill-health. MW-2 proves the validity of domestic enquiry and proceedings placed before this court. Whereas MW-1 proved that the hospital records vide Ex.M-1 to M-3 which were prepared during the course of day today office work shows that the petitioner was not admitted in Area Hospital, Ramagundam. He was not declared as fit or unfit in the above referred period. In fact the petitioner did not explain why he joined in Area Hospital, Ramagundam while he was working in Bellampalli. MW-1 actually denied the suggestion that petitioner got treatment from Area Hospital, Ramagundam. Therefore, from this suggestion it shows that the petitioner said to have obtained treatment at Area Hospital, Ramagundam. It was elicited from MW-1 that the entire stationary to the Area Hospital will be supplied by Central Office and in case of emergency they use to take from GM Office. In case of emergency they use to treat the patient beyond the jurisdiction of the hospital. If the petitioner wanted to show that he fell sick at Bellampalli and as an emergency case he was referred to Area Hospital, Ramagundam, it is for him to show that he was declared as unfit for the alleged illness during the period in which he failed to attend the duties but the documents produced through MW-1 namely registers clearly indicates that these registers were maintained at Area Hospital, Ramagundam but there is no entry about the treatment or alleged illness of the petitioner in the relevant period. If really the petitioner was admitted in the hospital and he was declared as unfit he could have communicate the said fact at the time of domestic enquiry. Apart from that the entries in Ex.M-1 to M-3 clearly indicates that the serial number appeared on each page contains (5) digits whereas the petitioner produced the certificate with (4) digits for which there is no explanation. The petitioner did not dispute the genuineness of Ex.M-1 to M-3. No where in the entire cross examination there was a suggestion to MW-1 that Ex.M-1 to M-3 are specifically prepared for the sake of this case. Therefore, I believe entries in Ex.M-1 to M-3 and I am of the opinion that the stand taken by the petitioner about the alleged illness is nothing but false.

Now I will refer the proceedings conducted by the enquiry officer (MW-2). According to these proceedings it is very clear that on 05-02-2008 a charge sheet was served on the petitioner asking his explanation for his poor attendance in the year 2007. He has attended work for only (50) musters in 2007. In fact the petitioner did not dispute this charge. The charge sheet was duly served on the petitioner and another notice informing the petitioner about the appointment of the enquiry officer was also served and duly acknowledged by the petitioner on 01-04-2008. The

proceedings recorded by MW-2 clearly indicate that the petitioner participated in the enquiry and when he was specifically asked about the charge he has admitted the charges voluntarily and he signed the proceedings. The enquiry officer has examined one A.Srinvas, Personnel Officer who deposed about the continuous absence of the petitioner to the duties. In the entire enquiry proceedings the petitioner has accepted the evidence of this witness. The statement recorded from the petitioner on 04-04-2008 indicates that he was absent for duty without sick leave or any information. He has admitted the absence of his duties. He has categorically stated before the enquiry officer that he was declared unfit on 17-10-2007 and was declared as fit after (14) days i.e., 13-10-2007. He was also declared as unfit to attend the duties for (10) days for 24-11-2007 to 03-10-2007 again for (3) days from 08-12-2007 to 10-12-2007. The OP certificate numbers with the serial numbers have been mentioned in the enquiry proceedings. He has also stated to the enquiry officer that he did not give any information immediately after sick/unfit but later submitted the certificate. It was his specific case before the enquiry officer that since his mother was sick due to paralysis he has attended his mother thereby he failed to attend duties and he admitted before the enquiry officer that he did not report at company hospital on other days and he has no documents as such he sought for exemption. The statement recorded by the enquiry officer duly signed by the petitioner herein clearly indicates that he was sick or declared as unfit to attend the duties during 2007 in (8) spells for (27) days in total. If really the petitioner was sick and was declared as unfit to attend duties for (65) days as claimed by him before this court he could have mentioned this fact before the enquiry officer and he could have produced OP receipts and other relevant records. The proceedings proved by the enquiry officer clearly indicated that the period of his sick/unfit was only (27) days. Therefore, it is very clear that the petitioner was unable to maintain minimum musters of 190 from 2005 to 2007. The learned counsel for the petitioner represented that the documents namely medical record of his mother clearly indicates that the petitioner was only person to look after his mother thereby he could not attend the duties and if he is removed from service for his attending mother it amounts to injustice thereby sought for reinstatement but I am unable to accept his plea. It may be true that the mother of the petitioner was sick/suffering from paralysis but on that ground the petitioner cannot avoid his duties without leaving any information to the employer. The enquiry proceedings clearly indicate that the petitioner did not even choose to inform the respondent about his absence. The respondent while relying upon judgment of the apex court in Civil Appeal No.1941/2014 argued that the unauthorized absence of a particular employee for continuous period of more than (2) months or (3) months cannot be considered and if an employee is allowed to absent from duty it will result irreparable loss to the organization. The petitioner who has admitted his fault at the time of domestic enquiry took a different stand at the time of enquiry before this court and pleaded that he fell sick and he created fake documents to show as if he was declared unfit for a period of (15) days which ultimately fault. Therefore, the petitioner is not entitled to be reinstated and I see no grounds to interfere with the findings of the respondent. Therefore, this petition is liable to be dismissed.

POINT No.3:

9. In the result, the petition is dismissed.

Dictated to Typist, transcribed by him, corrected and pronounced by me in open Court, on this the 28th day of August, 2017.

Shri SAMBASIVA RAO NAIDU, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:-

WW-1	--	Vidya Vishnu, petitioner

For Management -

MW-1	--	Dr.E.Rajeshwar, Medical Superintendent.
MW-2	--	J.Tulsi Rao, Retired officer

EXHIBITS

For workman:-

Ex.W-1	Dt.	17-09-2011	Copy of request for reappointment in company
Ex.W-2	Dt.	28-09-2008	Handicapped certificate of mother of petitioner
Ex.W-3	Dt.	--	Discharge card of mother of petitioner
Ex.W-4	Dt.	12-09-2011	Death certificate of mother of petitioner

For Management:-

Ex.M-1	Dt.	--	Register from 10-11-2006 to 22-11-2007
Ex.M-2	Dt.	--	Fit certificate book from 22-03-2007
Ex.M-3	Dt.	--	Fit and unfit register from 1-12-2006 to 31-12-2008

नई दिल्ली, 20 फरवरी, 2018

का.आ. 382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स ईस्टर्न कोलफील्ड लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **आसनसोल** के पंचाट **(संदर्भ संख्या 26/2006)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/2/2018 को प्राप्त हुआ था।

[सं. एल-22012/162/2005-आई आर (सी एम-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2018

S.O. 382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 26/2006)** of the Central Government Industrial Tribunal-cum-Labour Court, Asansol, as shown in the Annexure, in the Industrial Dispute between the management of **M/s. E. C. L.**, and their workmen, received by the Central Government on 16/02/2018.

[No. L-22012/162/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 26 Of 2006

PARTIES : The management of J. K. Nagar Colliery of M/s. ECL

v/s

Late Achla Bouri

REPRESENTATIVES :

For the management: Shri P. K. Goswami, Learned Advocate

For the union (Workman): Shri S. K. Pandey, Learned Union Representative

INDUSTRY: COAL STATE : WEST BENGAL

Dated : 22.01.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government. of India through the Ministry of Labour vide its letter **No. L-22012/162/2005–IR(CM-II)** dated 18.07.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of J. K. Nagar Colliery of M/s. Eastern Coalfields Limited in not providing the employment to the son of Late Achla Bouri, the workman is legal and justified? If not, to what relief the workman is entitled to? "

1. Having received the Order **No. L-22012/162/2005–IR(CM-II)** dated 18.07.2006 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **26 of 2006** was registered on 14.08.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The applicant Shri Sona Bouri, son of Late Smt. Achala Bouri has filed written statement through union representative. The applicant Shri Sona Bouri has alleged in his written statement that Late Smt. Achala Bouri in employment of the company as T/W Loader at J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited. Late Smt. Achala Bouri expired while in the service of the company on 20.12.1994 due to illness. The dependent son of Late Smt. Achala Bouri applied for employment as per norms of the company. His file for employment was processed by the colliery authority of Satgram Area of M/s. Eastern Coalfields Limited and the said file was sent to Head Quarter of M/s. Eastern Coalfields Limited after completing all formalities of employment. The area authority asked some clarification from Shri Sona Bouri, son of Late Smt. Achala Bouri vide their letter No. 152/67 dated 17.02.2000 by the Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited on the basis of Letter No. ECL/CMD/C6B/Employment/2000/71 dated 21/24.01.2000 of M/s. Eastern Coalfields Limited Head Quarter. Shri Sona Bouri replied the letter and also submitted the required documents. But thereafter no information was given to Shri Sona Bouri in spite of his repeated requests. Shri Sona Bouri belongs to downtrodden class of society. He left to street for begging with his family. Action of not providing employment to the dependent of Late Smt. Achala Bouri who expired while in service of the company is unjustified and against the guide lines of the National Coal Wage Agreement. The applicant has prayed that the management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited be directed to provide employment to the dependent son of Late Smt. Achala Bouri ex-T/W Loader as per provision of National Coal Wage Agreement.

3. The Agent of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited has alleged in his written statement that ex-employee Late Smt. Achala Bouri since deceased died on 20.12.1994 while she was in service. Soon after her death or within the stipulated period none of her dependents had applied for any employment for which the management had no laches and lacuna. That one application from Shri Sona Bouri, claiming the dependent son of Late Smt. Achala Bouri received on 28.03.1997, a long gap after 3 (three) years. The claim along with documents submitted by the claimant in support of his claim was sent to the Head Quarter for their perusal. But file returned back and no employment was provided for the reason that the claim was in belated stage. The concerned union raised the dispute for the first time before the Assistant Labour Commissioner (Central) by their letter dated 04.02.2004 about a decade after the date of Late Smt. Achala Bouri without assigning any reasons whatsoever as such which ought to be rejected. The employment on the compassionate ground cannot be reserved for an indefinite period. The union has no *'locus standi'* to raise the dispute. The dispute deserved to be rejected. The Agent of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited has prayed that the action of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited in not providing employment to the dependent of Late Smt. Achala Bouri is justified and the workman is not entitled to any relief.

4. The applicant, Shri Sona Bouri has field the following documents :-

(i) Photocopy of the Death Certificate of Late Smt. Achala Bouri, **(ii)** Photocopy of the Identity Card of Late Smt. Achala Bouri, **(iii)** Photocopy of the Service Excerpts of Smt. Achala Bouri, ex-employee where the name of Shri Sona Bouri, his son is mentioned, **(iv)** Photocopy of the Letter of Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited regarding some information, **(v)** Photocopy of the Reply of the dependant of the Ex-employee, Late Smt. Achala Bouri, **(vi)** Photocopy of the Relationship certificate from Block Development Officer of Raniganj, **(vii)** Photocopy of the Affidavit by Shri Sona Bouri, son of Late Smt. Achala Bouri, **(viii)** Photocopy of the Voter Identity Card of Shri Sona Bouri, the applicant.

The applicant, Shri Sona Bouri has filed affidavit in his oral evidence. He has been cross-examined by Shri P. K. Goswami, learned advocate for the management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited.

The management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited has not filed any oral or documentary evidence.

5. I have heard the arguments of Shri S. K. Pandey, learned union representative on behalf of Shri Sona Bouri, the applicant and Shri P. K. Goswami, learned advocate for the management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited

6. Shri P. K. Goswami, learned advocate for the management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited has argued that though there is no time limit for submitting application for employment on compassionate ground but it ought to be filed in reasonable time. The applicant, Shri Sona Bouri has filed application for employment on death of her mother Late Smt. Achala Bouri after a gap of long period, therefore that application for the employment is not maintainable and he is not entitled for any relief. On the other hand Shri S. K. Pandey, learned union representative on behalf of Shri Sona Bouri has argued that the applicant has applied for job in the year 1998 because it took long time to collect the relevant papers for the employment. The applicant is illiterate. In the year 2000 company sought some clarification from Shri Sona Bouri and directed to file Indemnity Bond and other documents. The applicant Shri Sona Bouri submitted reasonable explanation for delay and filed Indemnity Bond and other documents as per direction of the Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited. There is no delay on part of Shri Sona Bouri, the applicant. The delay has been caused the management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited. The applicant, Shri Sona Bouri is entitled for employment in J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited.

7. It is not disputed that Late Smt. Achala Bouri ex-employee was in employment of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited. It is also undisputed that she expired on 20.12.1994 while in service of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited. The copy of service excerpts maintained by J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited has been filed on record by the applicant. In this service excerpts Shri Sona Bouri has been mentioned as the son of Late Smt. Achala Bouri the deceased employee. Therefore it is undisputed that the applicant Shri Sona Bouri is son of Late Smt. Achala Bouri.

8. In Chapter - IX, Social Security of National Coal Wage Agreement the relevant provision of employment of one dependent of worker who dies while in service of the company is as follows :

" (i) The dependant of this purpose means the wife / husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, younger brother, widowed daughter / widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased may be considered to be the dependant of the deceased.

(ii) The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit shall not apply in the case of spouse. "

9. The applicant, Shri Sona Bouri has filed affidavit in his oral evidence. He has alleged in Para - 5 of affidavit that he is fully dependent on the income of his mother, Late Smt. Achala Bouri. Therefore as per requirements of National Coal Wage Agreement, the applicant fulfils the condition of National Coal Wage Agreement.

10. The term 'settlement' has been defined under section 2 (p) of Industrial Dispute Act, 1947 as under :

*" **'settlement'** means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to [an officer authorized in this behalf by] the appropriate Government and the conciliation officer."*

11. Hon'ble Supreme Court in **Sushma Gosain and others V/s Union of India and others, 1989 (59) FLR page 626** has held that :

" We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is not suitable post for appointment supernumerary post should be created to accommodate the applicant. "

12. The plea for not proving employment to the applicant, Shri Sona Bouri is ground of delay. The delay has been explained by the applicant Shri Sona Bouri. The Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited issued letter no. 152/67 dated 17.02.2000 to the applicant, Shri Sona Bouri and asked for the reason for gap between the last date of working and date of death of ex-employee, Late Smt. Achala Bouri. Late Smt. Achala Bouri expired on 20.12.1994. The Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited asked why the applicant, Shri Sona Bouri applied for employment on 28.03.1997 after such delay, besides The Personnel Manager of Satgram Area of M/s. Eastern Coalfields Limited directed the applicant to complete some formalities e.g. Indemnity Bond, Witnesses declaration certificate, etc. The applicant Shri Sona Bouri replied to management on 11.03.2000 which is as follows **:**

"(1) That in answer about para 1 of the letter I beg to state that reason of gap in duty of my deceased mother Smt. Achala Bouri between last date of working (02/11/94) and death of the Ex-employee Smt. Achala Bouri (20/12/94)

was illness and she was under treatment of the Physician. In supporting of that there is enclosed the copy of medical certificate from 02/11/94 to 19/12/94 and copy of prescription for your kind perusal. And my mother Smt. Achala Bouri (Ex-Employee) died on 20/12/94 for which a copy of certificate of death is also enclosed herewith.

(2) That in answer about para 2 of the letter I beg to state that reason for delay in submitting application for employment for myself (i.e. since 20/12/94 to 28/03/97) was my minority i.e. I was only 15 years old at the time of death of my mother Smt. Achala Bouri (20/12/94) and it is also fact that we have collected/received the death certificate in the month March 95 and completed and collected the necessary documents and papers regarding employment with signing and verifying by public offices in the month of February 97. Copy of the same are available before you in the file of my employment along with prescribed application.

Hope it will help you about query and therefore it is requested to clear the matter with taking necessary action for my employment against the death of my mother (ex-employee) Smt. Achala Bouri without any delay."

13. Form perusal of the material available on the record it is apparent that the applicant Shri Sona Bouri applied for employment in J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited as per provision of National Coal Wage Agreement. As per provision of National Coal Wage Agreement he is entitled for employment in J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited. The death of Late Smt. Achala Bouri, ex-employee occurred on 20.12.1994, while applicant applied for job on 28.03.1997 near about a delay of 2 (two) years and 3 (three) months. The cause of delay has been reasonably explained by the applicant. The delay of little more than 2 (two) years has been caused by the applicant under compelling circumstance. As per clause of National Coal Wage Agreement the applicant Shri Sona Bouri the son of Late Smt. Achala Bouri is entitled for employment. The agent of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited neither provided the employment nor rejected the employment proposal under intimation to the applicant. If intimation of rejection of employment proposal had been communicated to the applicant, Shri Sona Bouri the delay in raising the industiral dispute would not have been caused. The management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited cannot take advantage of his own delay.

14. In the light of above discussion the action of management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited in not providing the employment to the son of Late Smt. Achala Bouri, the workman is illegal and unjustified. Shri Sona Bouri the dependent son of Late Smt. Achala Bouri is entitled for employment in J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 20 फरवरी, 2018

का.आ. 383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स ईस्टर्न कोलफील्ड लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **आसनसोल** के पंचाट **(संदर्भ संख्या–31/2001)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/2/2018 को प्राप्त हुआ था।

[सं. एल-22012/69/2001-आईआर (सी.एम.-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2018

S.O. 383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 31/2001)** of the Central Government Industrial Tribunal-cum-Labour Court, **Asnsol,** as shown in the Annexure, in the Industrial Dispute between the management of **M/s. E.C.L.**, and their workmen, received by the Central Government on 16/02/2018.

[No. L-22012/69/2001-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 31 OF 2001

PARTIES : The management of Samala Colliery of M/s. ECL

V/s

Sri Jageshwar Pasi

REPRESENTATIVES :

For the management: Shri P. K. Goswami, Learned Advocate

For the union (Workman): Shri Rakesh Kumar, Learned Union Representative

INDUSTRY: COAL STATE : WEST BENGAL

Dated : 10.01.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/69/2001–IR(CM-II)** dated 24.12.2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Samala Colliery of M/s. Eastern Coalfields Ltd., in not providing employment to the dependant so Sri Jageshwar Pasi, as per provision of Cl. 9.4.3 of N.C.W.A. IV is legal and justified? If not, to what relief the workman is entitled to? "

1. Having received the Order **No. L-22012/69/2001–IR(CM-II)** dated 24.12.2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **31 of 2001** was registered on 31.12.2001. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. Case called out. Shri P. K. Goswami, learned advocate appears on behalf of the management of Samala Colliery of M/s. Eastern Coalfields Limited and Shri Rakesh Kumar, learned union representative of the union is present on behalf of the workman, Shri Jageshwar Pasi.

3. On perusal of the case record I found that the case was fixed for filing evidence of the workman on 09.12.2014. Since then 11 dates have been fixed and more than 2 (Two) years have been passed but neither the workman turned up before the tribunal nor the evidence of the workman has been filed by the union representative. Shri Rakesh Kumar, learned union representative submits that the reference may be closed as he could not contact the workman in spite of several efforts. It seems to me that the workman does not want to proceed with the case any further. This is one of the oldest Reference of this Tribunal - of the year 2001. I have no option left but to close the case. As such the case is closed and accordingly a **'No Dispute Award'** is hereby passed.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 20 फरवरी, 2018

का.आ. 384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स वेस्टर्न कोलफील्ड लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवादमें केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **नागपुर** के पंचाट **(संदर्भ संख्या–38/2014-15)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/2/2018 को प्राप्त हुआ था।

[सं. एल-22012/65/2014-आईआर (सी.एम.-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2018

S.O. 384.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 38/2014-15)** of the Central Government Industrial Tribunal-cum-Labour Court, **Nagpur,** as shown in the Annexure, in the Industrial Dispute between the management of **M/s. Western Coalfield Ltd.,** and their workmen, received by the Central Government on 09/02/2018.

[F. No. L-22012/65/2014-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/38/2014-15 Date: 04.01.2018

Party No.1(a): The Sub Area Manager,
Western Coalfields Limited, Durgapur
O/c Sub Area, Post: Durgapur,
Distt. Chandrapur-442401.

Party No.1(b): The Director, Shankmugam Coal Carriers
Pvt. Ltd., SCC Camp, Durgapur O/c Mine,
Near DOC Weight, Chandrapur-442401(MS)

Party No.1(c): The Director, M/s Hemkunt Coal Carriers Pvt. Ltd.,
Contractor of WCL, B-10/7156, Vasant Kunj,
New Delhi-70.

Versus

Party No.2 : The Secretary, BKKMS(BMS),
Vishwakarma Sadan, Mahakali Colliery,
PO: Babupeth, Chandrapur,
Distt. Chandrapur-442401.

AWARD

(Dated: 4th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their union, BKKMS (BMS) for adjudication, as per letter No.L-22012/65/2014- (IR(CM-II) dated 28.10.2014, with the following schedule:-

(i) "Whether the action of the management of M/s Shankhmugam Coal carries Pvt. Ltd., (An Ex-Servicemen Enterprises) Chandrapur in terminating the services of three contract workers namely 1) Sh. Sammer Akbar Khan, Driver, 2) Papu Raghuraj Prajapati, Driver & 3) Pandit Soyam, Pay Loader Operator and the Management of M/s Hemkunt Coal Carriers Pvt. Ltd., (Ex-Servicemen Agency) Contractors of WCL in

terminating the services of three contract workers namely 1) Sh. Kailash Das, Driver, 2) Sh. Narsingh Harkillawar, Driver & 3) Shrikant Rukhani Verma, Driver are legal, just & proper? If not, then what relief the workmen concerned are entitled to?

(ii) Whether the demand of the Union for revised rates of wages as Per High Power Committee's recommendation issued vide Office Order No. CIL/C-5B/JBCCI/HPC/566 dated 18.02.2013 issued by the General Manager, (MP & IR), Coal India Ltd. Kolkata is legal, just & proper? If so, what relief the contract workmen are entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due. On 10.02.2015, advocate for the workman was present but did not file statement of claim. Court was vacant from March, 2015 to September, 2017. So, next notice was issued to the parties fixing the date on 29.11.2017. On 29.11.2017, advocate for the management Mr. A.S. Mehadia was present but, on behalf of the petitioner, nobody was present. Service of notice to the petitioner for the date of 29.11.2017 was completed on 16.11.2017. It shows that, petitioner is not interested to continue this case.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 20 फरवरी, 2018

का.आ. 385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स वेस्टर्न कोलफील्ड लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **नागपुर** के पंचाट **(संदर्भ संख्या–52/2014-15)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/2/2018 को प्राप्त हुआ था।

[सं. एल-22012/77/2014-आईआर (सी.एम.-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2018

S.O. 385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 52/2014-15)** of the Central Government Industrial Tribunal-cum-Labour Court, **Nagpur,** as shown in the Annexure, in the Industrial Dispute between the management of **M/s. Westeren Coalfield Ltd.**, and their workmen, received by the Central Government on 09/02/2018.

[No. L-22012/77/2014-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE SHRI SHYAM SUNDER GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/52/2014-15 Date: 15.01.2018

Party No.1 : The Colliery Manager/Superintendent
Of Mines, Western Coalfields Limited,
Pipla Colliery, PO: Walni, Tehsil:
Saoner, Distt. Nagpur.

Versus

Party No.2 : The Working President,
Rashtriya Koyla Khadan Mazdoor Sangh
(INTUC), R/o 1210/B, Choudhary Layout,
Near Naroman Hall, Anant Nagar,
Nagpur – 440013.

AWARD

(Dated: 15th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their union, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), for adjudication, as per letter No.L-22012/77/2014- IR(CM-II) dated 25.11.2014, with the following schedule:-

"Whether the action of the management of Western Coalfields Ltd., Pipla Colliery, Tehsil Saoner, Distt. Nagpur in denying the claim of regularization of Sh. Abdul Khalik Sheikh Babbu in the post of Clerk, is just, fair & legal? If not, to what relief the concerned workman is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due.

The party No.1 appeared through their advocates on 27.01.2016.

In spite of sufficient service of notice on the petitioner, none appeared on behalf of the petitioner. No statement of claim was also filed on 08.12.2017even after second notice was served for the date of 08.12.2017. Thereafter the case was adjourned for today for the same purpose but, today also, no statement of claim is filed. Petitioner did not appear even today. So, case is closed for award.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 20 फरवरी, 2018

का.आ. 386.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **मेसर्स ईस्टर्न कोलफील्ड लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, **आसनसोल** के पंचाट **(संदर्भ संख्या–54/2000)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2018 को प्राप्त हुआ था।

[सं. एल-22012/517/1999-आई.आर. (सी.एम.- II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 20th February, 2018

S.O. 386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 54/2000)** of the Central Government Industrial Tribunal-cum-Labour Court, **Asansol,** as shown in the Annexure, in the Industrial Dispute between the management of **M/s. E.C.L.**, and their workmen, received by the Central Government on 16/02/2018.

[No. L-22012/517/1999-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 54 OF 2000

PARTIES : The management of Bhanora Colliery of M/s. ECL

v/s

Shri Rohan Yadav

REPRESENTATIVES :

For the Management : Shri P. K. Das, Learned Advocate

For the Union (Workman) : Shri Rakesh Kumar, Learned Union Representative

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 29.01.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/517/99–IR (CM-II)** dated 13.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

" Whether the action of the management of Bhanora Colliery in not correcting the year of birth of Sh. Rohan Yadav as 1950 instead of 1940 is justified? If not, to what relief the workman is entitled? "

1. Having received the Order **NO. L-22012/517/99–IR (CM-II)** dated 13.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **54 of 2000** was registered on 01.08.2000 / 17.10.2001. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. Shri Rohan Yadav has filed written statement through his union representative, has alleged that his date of birth is 05.06.1950. But instead of this date of birth his date of birth is recorded in service excerpts as 1940. He raised the matter but his case was not examined by ADC/APEX. As per I.D. No. 76 the date of birth recorded in the Matriculation Certificate has to be admitted, but in this instant case his date of birth is not corrected by the management yet. This issue has been discussed at various level, but his date of birth has not been corrected as per Matriculation Certificate, which is a clear violation of the guidelines of J.B.C.C.I. The management has not following his own guideline as per I.D. No. 76. His superannuation on the basis of date of birth of 1940 is wrong and illegal. The workman has prayed that the date of birth of Shri Rohan Yadav should be corrected as 05.06.1950 instead of 1940 and he should be allowed to resume his duty with all consequential benefits.

3. The Agent of Bhanora/Girimint (R) Colliery of M/s. Eastern Coalfields Limited has denied the allegation of workman. The Agent of Bhanora/Girimint (R) Colliery of M/s. Eastern Coalfields Limited has stated in his written statement that the dispute is misconceived and is not maintainable. The concerned workman was appointed in the year 1971. His year of birth at the time of his initial appointment was recorded as 1940 in the Form 'B' Register i.e. the service record which is a statuary document under the provision of Mines Act. The said entries with regard to date of birth of the concerned workman was recorded as per the declaration given by the employee. Said entries were duly authenticated to the employee who put his endorsement thereon in token of his acceptance by putting his L.T.I. as required under the provision of Section - 48 of the Mines Act. It is not known to the management, whether the concerned workman was matriculate or not, as he never produced any such Matriculation Certificate at the time of his appointment. He never claimed his alleged date of birth as 05.06.1950 during his long period of service. There is no provision or scope to accept the said Certificate as otherwise represented by the union. The management never acted arbitrarily in the matter of correction of date of birth. The provision of I. I. No. 76 of J.B.C.C.I. will be referred before Hon'ble Tribunal in its true purport at the time of hearing of this case. The claim of change of date of birth cannot be accepted at the fag end of service of the workman. The date of birth as recorded in the service record is to be treated as

final. The employee has already been superannuated on 01.07.2000 as per contract of employment. The date of birth recorded in Form 'B' Register i.e. 1940 is final. The action of management of Bhanora Colliery of M/s. Eastern Coalfields Limited is fully justified in not correcting the year of birth of the concerned workman as 1950 instead of 1940. The concerned workman is not entitled to any relief as prayed for.

4. The workman has filed rejoinder written statement. He has alleged in the rejoinder written statement that the statement of management is wrong and without any valid ground. The fact is that Shri Rohan Yadav was appointed in the year 1971 before nationalization. At that time there was no system to give declaration of the service particulars of the employee. The clerks of private owner (of coal mines) recorded the date of birth at their sweet will without any opportunity to clarify it form workman. After nationalization (of coal mines) the unions and management of Coal India Limited agreed to provide chance to the workers of Coal India Limited to make them aware of their service particulars so that they can raise objection, if there any, in their service particulars. The management issued service excerpts format in the year 1987. At that time Shri Rohan Yadav raised objection about his date of birth. This fact was admitted by the management in conciliation proceeding. Photo copy of service excerpts format in which workman raised objection has filed on record. The contention of management is that the workman did not raise the age dispute is incorrect. The workman raised the dispute in 1987 but the management did not paid any heed to it. Even management did not accept this fact before Assistant Labour Commissioner in conciliation proceeding. As per provision I. I. No. 76 if any worker possess Matriculation Certificate prior to his service his date of birth shall be accepted which is recorded in Matriculation Certificate. Denial of correcting the date of birth of Shri Rohan Yadav is unjustified.

5. The workman has filed the following documents :

(i) Photocopy of the Service Excerpts in which workman raised objection about his date of birth in the year 1987, **(ii)** Photocopy of the Mark Sheet of Bihar School Examination Board, **(iii)** Photocopy of the Matriculation Certificate of Bihar School Examination Board, **(iv)** Photocopy of the School Leaving Certificate, **(v)** Photocopy of the letter of union addressed to G.M. (P&IR), ECL dated 08.03.2000, **(vi)** Photocopy of the Minutes of meeting held with CGM (P&IR), ECL on 22.12.2001, **(vii)** Photocopy of the letter of Joint Bipartite Committee for the Coal Industry dated 25.04.1988, **(viii)** Photocopy of the Implementation Instruction No. 76.

The workman, Shri Rohan Yadav has examined himself as witness. He has been cross-examined by the learned advocate of Bhanora Colliery of M/s. Eastern Coalfields Limited.

The management of Bhanora Colliery of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence.

6. I have heard the arguments of Shri P. K. Das, learned advocate of Bhanora Colliery of M/s. Eastern Coalfields Limited and Shri Rakesh Kumar, union representative on behalf of the workman, Shri Rohan Yadav.

7. Shri P. K. Das, learned advocate of Bhanora Colliery of M/s. Eastern Coalfields Limited has argued that the workman Shri Rohan Yadav did not file his Matriculation certificate at the time of his entry in the employment. He accepted his year of birth as 1940. He cannot raise the age dispute at the fag end of his service. On the other hand Shri Rakesh Kumar, learned union representative of the workman has argued that it is incorrect that Shri Rohan Yadav raised the age dispute at the fag end of his service he was appointed before nationalization of coal mine. In private coal mines there was no due procedure for recording the correct date of birth. After nationalization the management of Bhanora Colliery of M/s. Eastern Coalfields Limited prepares service excerpts and tendered copy to each workman. Shri Rohan Yadav raised the dispute in 1987 but till now his date of birth is not corrected as per Matriculation Certificate.

8. It is undisputed that Shri Rohan Yadav has joined the employment in coal mines in 1971, this fact is also confirmed from service excerpts maintained by Bhanora Colliery of M/s. Eastern Coalfields Limited and copy filed by the workman. In service excerpts the date of appointment is recorded as 1971 and date of birth record as 1940 but in remarks column Shri Rohan Yadav has written *" My date of birth is 1950 (Nineteen Hundred Fifty). Date of joining is 1971 (Nineteen Hundred Seventy One) please rectify my record "* Shri Rohan Yadav put his sign below it. It is noteworthy that Shri Rohan Yadav requested for correction of his date of birth as 1950 instead of 1940 at initial stage, in 1987, when service excerpts was prepared by Bhanora Colliery of M/s. Eastern Coalfields Limited. The concerned authority of Bhanora Colliery of M/s. Eastern Coalfields Limited has put signature on 21.09.1987. The meeting between representative of management and representative of union was held on 22.12.2001. The copy of minutes filed by the workman at Serial No.-13. The dispute of age of Shri Rohan Yadav was raised which was under process. The matter was again raised in the reconciliation proceeding before Assistant Labour Commissioner (Central). The copy letter of Joint Bipartite Committee for the Coal Industry dated 25.04.1988 has been filed and its Para - 7 is as below :

" It was agreed that an employee raising a dispute regarding his / her qualifications shall submit his / her certificates relating to his / her qualifications to the management and the management after satisfying about the genuineness of the claims would insert the said qualifications in the Service Record of the employee. Original documents furnished by the employee would be returned to his / her after verification and photo copies retained, if required by the management. "

9. The copy of Implementation Instruction No. 76 has been filed by the workman, in this document the guidelines for determination of the age at the time of appointment is mentioned which is as below :

" (A) Determination of the age at the time of appointment :

(i) Matriculates :

In the case of appointees who have passed matriculation or equivalent examination, the date of birth recorded in the said certificate shall be treated as correct date of birth and same will not be altered under any circumstances.

(B) Review / determination of date of birth in respect of existing employees :

(i) (a) In the case of the existing employees Matriculation Certificate or Higher Secondary Certificate issued by the recognised Universities or Board or Middle Pass Certificate issued by the Board of Education and / or Department of Public Instruction and admit cards issued by the aforesaid Bodies should be treated as correct provided they were issued by the said Universities / Boards / Institutions prior to the date of employment. "

10. Shri Rohan Yadav has filed copy of Mark Sheet and Certificate of Bihar School Examination Board. In his Matriculation certificate his date of birth is recorded as 05.06.1950. He passed the Matriculation Examination in the year 1970 in 2nd Class. It is apparent that he passed Matriculation Examination in 1970 prior to his appointment in 1971. WW - 1, Shri Rohan Yadav has stated in his oral evidence that he was appointed in 1971 in Bhanora Colliery of M/s. Eastern Coalfields Limited as Underground Trammer. At the time of his appointment his date of birth is record as 05.06.1950. His date was changed by the management as 1940 in the year 1975. He complained for the correction but the management did not consider his claim. He has been illegally superannuated. In support of his claim he submitted Matriculation Certificate before the management. He raised the dispute in the year 1987 as per his service excerpts. But that was not considered by the management.

11. There is ample evidence on record that concerned workman Shri Rohan Yadav raised the question of correction of his date of birth as 05.06.1950 instead of 1940 in the year 1987. The service excerpts was prepared in 1987. At the time of preparation of service excerpts when the fact of age came into the knowledge of workman he raised the objection at first instance. Even workman made unsuccessful attempts to resolve this issue through union representative. The request of Shri Rohan Yadav for correction of date of birth was not accepted by management. I am unable to agree with the view of Shri P. K. Das, learned advocate of the management that workman raised the dispute at the fag end of his service. Even the management Bhanora Colliery of M/s. Eastern Coalfields Limited did not follow his own guidelines for recording date of birth. The concerned workman Shri Rohan Yadav passed the Matriculation Examination before induction in employment.

12. In view of above discussion the action of management of Bhanora Colliery of M/s. Eastern Coalfields Limited in not correcting the year of birth of Shri Rohan Yadav as 05.06.1950 instead of 1940 is unjustified. Shri Rohan Yadav is entitled for correction of his date of birth as 05.06.1950 instead of 05.06.1940.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 387 .—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **निदेशक, क्षेत्रीय स्टेशन, फोरेज उत्पादन व प्रदर्शन के लिए, गांधीधाम, गुजरात एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, **अहमदाबाद** के पंचाट **(संदर्भ संख्या–105/2005)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/10/2017 को प्राप्त हुए थे।

[सं. एल-42012/177/1996-आई आर (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22th February, 2018

S.O. 387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGITA No. 105/2005)** of the Central Government Industrial Tribunal-cum-Labour Court, **Ahmedabad,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Director,**

Regional Station for Forage Production & Demonstration, Gandhidham, Gujarat and their workmen, received by the Central Government on 09/10/2017.

[No. L-42012/177/1996-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present:

Pramod Kumar Chaturvedi,

Presiding Officer, CGIT-cum-Labour Court,

Ahmedabad,

Dated 05th September, 2017

Reference: (CGITA) No- 105/2005

The Director,

Regional Station for Forage Production and Demonstration,

CH – 128, Sector- 30,

Gandhidham(Gujarat) …First Party

V/s

The General Secretary,

All Gujarat Karmachari Union (AITUC),

Ashapuri Nagar, Bhilwada Road,

Amaiwadi,

Ahmedabad (Gujarat) …Second Party

For the First Party : Shri N.V. Dixit

For the Second Party : Shri G.K. Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/177/96-IR(DU) dated 07.11.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of All Gujarat Kamdar Karamchari Union, Ahmedabad for the reinstatement of Smt. Gangaben Laxmanbhai and 6 others with full back wages and continuity of service is justified? If yes, to what relief the workmen are entitled to and from which date?"

1. The reference dates back to 07.11.2005. The second party workman submitted the statement of claim Ex. 4 on 27.02.2006 along with the vakalatpatra Ex. 5. The first party submitted the written statement Ex. 7 on 06.11.2008. Since then the applicant has been absent. Therefore, on 30.11.2010, a fresh notice was sent to the second party union to appear on 07.03.2011. The said notice was not received back as unserved. Despite the same, the second party union did not respond till date for leading evidence. Thus it appears that the second party union has not been leading to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party union with the observation as under: "the demand of All Gujarat Kamdar Karamchari Union, Ahmedabad for the reinstatement of Smt. Gangaben Laxmanbhai and 6 others with full back wages and continuity of service is not justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 388.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **प्रबंधक, मछली नेट मेकिंग प्लाटं, तुंगभद्रा बोर्ड, बेल्लारी जिला एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय**, **बैंगलोर** के पंचाट **(संदर्भ संख्या–72/1990)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.6.2017 को प्राप्त हुआ थे।

[सं. एल-42012/22/90-आईआर (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 72/1990)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Manager, Fish Net Making Plant, Tungabhadra Board, Bellary Distt. and their workman** which was received by the Central Government on 20.06.2017.

[No. L-42012/22/90-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE **CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT**

DATED : 12th JUNE 2017

PRESENT : **Shri V S RAVI,**

Presiding Officer

C R No. 72/1990

I Party	**II Party**
Sri. R. Venkateswara Rao,	The Manager,
Quarters No. 12, New Fishers Colony,	Fish Net Making Plant,
T.B. Dam,	Tungabhadra Board,
Bellary Distt.- 533225	T.B. Dam,
	Bellary Distt.- 533225
(For I party, Mr. Suresh P, Sridhara.D. Naik Advocates)	**(For II party Mr. Nanda Kishore Advocate)**

AWARD

1. The Central Government vide Order No.L-42012/22/90-IR(DU) dated 16.11.1990 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of Fish Net Making Plant, Tungabhadra Board, T.B. Dam, Bellary Distt. in dismissing Sri. Venkateswara Rao, Ex-Workmen from his services is justified? If not, to what relief the workman is entitled to?"

2. Brief details mentioned in the Claim Statement are as follows:-

i) The I Party submits that, he is the workman under the Fish Net Making Plant, an industry engaged in the process of manufacturing Fish Nets and Twines. The above industry is controlled by manager, who is in turn controlled by the

secretary, T.B. Board. The activities of the Fish Net Making Plant is to buy raw-materials such as yarn from various yarn manufactures and out of the raw-materials, with the labour of workmen employed in the factory, preparing nets for catching fishes and twines and hanks and selling those manufactured goods to various consumers through open market and co-operative societies. Thus the II Party/Management long back accepted that the factory is an Industrial Concern. Further, the I Party has been appointed by the II Party on 06.02.1978 as a worker. The II Party also used to utilise his service for office works going to Treasury and Banks for encashment of bills. On 31.03.1984 the cashier of the Fish Net Making Plant, Shri. B.M. Balakrishnan sent one Laxmipathi naik, Second Division Clerk of Fish Net Making Plant to treasury, and service of Laxmipathi naik has been borrowed from Government of Karnataka, Department of Fisheries for the time being, in accordance with the customary practice, prevailed in T.B. Board and the services of Government employees of Karnataka and Andhra Pradesh, have been borrowed.

ii) Further, the cashier of F.N.M.P sent certain bills through Shri. H. Laxmipathi naik, by entering them in treasury encashment register in his own handwriting endorsed in the name of Shri. H. Laxmipathi naik. Further, after some time, the cashier sent 6 bills for Rs. 688.30/- endorsed in the name of Shri. H. Laxmipathi naik for encashment, through the I Party, and the I Party has handed over those bills to Shri. H. Laxmipathi naik at treasury and returned back. After the lapse of time, of about ½ year, the II Party sent a suspension order to the I Party on 13.09.1985. After a long time, on 07.02.1986, the II Party issued a memorandum of charges, and after the lapse of another 6 months on 30.08.1986, the II Party appointed an enquiry officer for enquiring the imputation of the misconduct. Further, the II Party mischievously denied to supply the copy of the Report of the enquiry officer to the I Party. Further, the I Party learnt that the report of the enquiry officer is negative one and II Party has failed to prove the charges made as against the I Party. The allegation of the II Party is that the I Party/Workman in conjunction with the Shri. H. Laxmipathi naik, prepared 2 bills for Rs. 20,000/- and Rs. 72,900/- by committing forgery, and managed to encash those bills from State Bank of Mysore, Hospet and misappropriated the said amounts. To draw a bill of F.N.M.P, there are various methods such as preparing the bill, verification, getting them passed from T.B. Board Secretary, and also, the counter signature of various officials are involved. The said facts have been upheld by the enquiry officer.

iii) It is very curious to note from the records that those 2 bills have been passed by sub-treasury, Hospet, without entering them in the treasury encashment register, which is mandatory provision according to Karnataka Financial Code. Thus, the curious and mystery of Rs. 92,900/- has been tagged on the I Party and he has been victimized on the basis of false allegations. But the said Shri. H. Laxmipathi naik being the servant of the Karnataka Government filed a Writ Petition before the High Court of Karnataka and according to the final order the services of the above Shri. H. Laxmipathi naik has been reinstated, and his back wages have also been paid. In spite of failing to prove the charges alleged in charge sheet and contrary to the findings of the enquiry officer, the dismissal of the I Party from service is illegal, unwarranted and against the principles of natural justice. The attitude of the Management, in dismissing the services of the I Party, without sufficient proof of the case, is illegal, unfair and against the principles of the natural justice. Therefore, the I Party prays this Court to direct, the II Party to reinstate the I Party to his service with all consequential benefits which would meet the ends of justice.

3. Brief details mentioned in the Objection Statement are as follows:-

The II Party states that, the dispute raised by the I Party/Workman under Industrial Dispute Act is not valid as the Industrial Dispute Act is not applicable to Tungabhadra Board. Hence, this Court has no jurisdiction to entertain the case under Industrial Dispute Act. The said Shri. H. Laxmipathi naik moved to the Hon'ble High Court of Karnataka against the order of suspension. The Hon'ble High Court order is binding on II Party. The facts and circumstances of Shri. H. Laxmipathi naik's case are quite different from Sri. R. Venkateswara Rao's case. The suspension of Shri. H. Laxmipathi naik, has been set aside, due to absence of prior permission from his parent department of Karnataka Government. In any event the present claim is liable to be dismissed under law, and therefore the II Party prays this Court to reject the prayer of I Party by awarding the cost of the II Party.

4. The pertinent points/issues that arise for consideration in the present matter are:-

(i) Whether the II Party proves that the Industrial Dispute Act, 1947 is not applicable to II Party and this Court has no jurisdiction to entertain the present case?

(ii) Whether the action of the Management of Fish Net Making Plant, Tungabhadra Board, T.B. Dam, Bellary District, in dismissing the Shri. R. Venkateswara Rao, I Party/workman from his service is justified?

(iii) Whether the I Party is entitled to get relief as prayed for in the claim statement in view of the reinstatement and payment of Back wages and consequential benefits already granted to the co-accused Shri. H. Laxmipathi naik?

5. Analysis, Discussion Findings with regard to the above mentioned point No. 1:-

The I Party has clearly stated in the claim statement that the I Party is a workman under the Fish Net Making Plant, an industry engaged in the process of manufacturing Fish Nets and Twines and the activities of the Fish Net Making Plant is to buy raw-materials and out of raw materials, with the labour of workmen employed in the industry, used to prepare nets for catching fishes and twines and hanks and selling those manufactured goods to various consumers through open market and co-operative societies. In the Objection Statement also, II Party has admitted that the Fish Net Making Plant

has been setup for the welfare of poor fishermen community as a Socio-Economic Welfare measure to cater to the needs of poor fishermen for their requirement of the Nylon twines and webbings and to help them in having better catches and the products of the said plant are distributed to the said fishermen through Government Department Co-operative Societies. The I Party in his evidence also stated that he has worked with II Party from 1978 to 13.09.1985 as general worker. In the charge sheet also I Party has been cited as a worker of Fish Net Making Plant, Tungabhadra Board, by II Party. In the suspension order issued by II Party to I Party, it is clearly stated that the attention of the Manager has been invited with regard to standing orders governing the factory workers under which the subsistence allowance payable for the I Party Grade-II Worker. In the memorandum No. FNMP/E-1/1058/E&A/85-86/580 dated 07.02.1986 also the II Party has mentioned the I Party as the worker in the Fish Net Making Plant. In the memorandum No. 5084/M-2/Audit/85-14 dated 27.08.1986, also the I Party has been cited as 2nd Grade Worker of the Fish Net Making Plant on behalf of II Party. In the above mentioned facts and circumstances it is crystal clear that I Party will come under the definition of workman under sec 2(s) of the Industrial Dispute Act, 1947 and the II Party has not established that the II Party is not an industry under the Industrial Dispute Act, 1947, and also, this Court has no jurisdiction to entertain the present case.

6. Analysis, Discussion Findings with regard to the above mentioned point Nos. 2 and 3:-

The workman/I Party has clearly stated in the claim statement that, after lapse of 6 months the II Party has issued the suspension order to the I Party on 13.09.1985 and along with him Shri. H. Laxmipathi naik has also been suspended and once again after a long time on 07.02.1986, the II Party has issued an memorandum of charges. However, the Enquiry Officer in his report dated 31.01.1989 has given his findings that the allegations regarding forgery of signature has to be dealt with only by handwriting experts and it is not possible for others to say anything definite about the forgery and the allegations of forgery can be stated by the hand writing experts only in a more authenticative manner and the second charge is also depend upon the encashment of forged bills. Further, as per the F.I.R the complaint has been lodged on 11.09.1985 in the Crime No. 38/85 as against Shri. H. Laxmipathi naik and Shri. R. Venkateswara Rao (I Party herein). Further, the I Party has produced the order passed by the Hon'ble High Court of Karnataka in Criminal Revision No. 140/2005 c/w Criminal Revision No. 119/2005, dated 30.05.2008, (Before Mr. Justice R.B. Naik) in the case of R. Venkateswara Rao Vs State of Karnataka, and also Criminal Revision No. 119/2005 in the case of H. Laxmipathi naik, R. Venkateswara Rao Vs State of Karnataka,wherein it is clearly held as follows:- "Both the Criminal Revision Petition are allowed. The order of conviction and sentence of the petitioners for the offence punishable under section 467 of IPC is set aside. The petitioners-accused and acquitted of the charges levelled against them. The bail bonds furnished by the petitioners-accused shall stand dissolved. The fine amount if any paid shall be refunded to them." Further, in the W.P. No. 61257/2009, dated 19.02.2015, the Hon'ble High Court of Karnataka (Before Mr. Justice A.S. Bopanna), in the case of R. Venkateswara Rao (I Party herein) Vs Tungabhadra Board and the Manager of Fish Net Making, it is held as follows:- "The matter is remitted to the CGIT to restore C.R. No. 72/1990 (the present case) on file and consider the same in accordance with law."

7. Further, as per the proceedings of Director of Fisheries dated 18.11.2010, the compulsory retirement order passed against the said Shri. H. Laxmipathi naik, who has been punished with reference to the proceedings of the Directors of Fisheries by vide its members adm/(s)/39/2002-03 dated 28.11.2006 has been set aside and the said person has been restored to the Government service as Assistant Director (Grade-I). Further, as per the order passed by the, Office of the Principal Accountant General (A&E) Karnataka, Bangalore, the pension claims of the said Shri. H. Laxmipathi naik, has been finalised and also pensionary benefits and other benefits have been given to the said Shri. H. Laxmipathi naik. Further, as per the letter dated 15.09.2008, written by Secretary to Government, Home Department, Government of Karnataka, to Director of Prosecution, it is clearly mentioned that the Government have decided not to prefer an appeal as against the said Criminal Revision No. 140/2005 and 119/2005. On that ground only I Party has categorically stated that the co-accused namely, Shri. H. Laxmipathi naik, has been reinstated and also all the benefits have been granted. However, for the I Party, the II Party has not granted the same relief without any valid reasons. Further on perusal of F.I.R. it is evident that, Shri. H. Laxmipathi naik, has also been cited as co-accused along with the I Party/Shri. R. Venkateswara Rao, herein. However, only for the said Shri. H. Laxmipathi naik, the order of compulsory retirement has been revoked and all the pension benefits and other benefits have been granted to Shri. H. Laxmipathi naik. Further, it is pertinent to point out that as against the Shri. H. Laxmipathi naik and also the I Party, the same allegations have been made against them by the II Party. Hence, as per the principles of natural justice also, it is clear that the same orders of reinstatement has to be passed in favour of the I Party, as already done in the case of co-accused Shri. H. Laxmipathi naik, by the II Party.

8. Further, the allegation of the II Party, is that, the I Party along with the said Shri. H. Laxmipathi naik, during the year 1984 have committed the forgery and misappropriation of Rs. 92,900/- and based upon the said allegation the criminal case in CC No. 1164/92 has been filed. In the said case only the I Party herein along with Shri. H. Laxmipathi naik have been acquitted as per the Order passed by the Hon'ble High Court of Karnataka in Criminal Revision Case. Further, the Government of Karnataka, also decided not to file any further proceedings as against the said criminal revision orders of the Hon'ble Karnataka High Court. Further, the Manager in Ex M-1, dated 07.02.1986 has stated that, it appears that I Party has colluded with the said Shri. H. Laxmipathi naik in preparation of the forged bills with a view to misappropriate the amount. However, in the said case only, both have been acquitted and only

Shri. H. Laxmipathi naik has been reinstated with back wages and all other benefits, and I Party/ Venkateswara Rao, herein has not been granted the legal benefits though both have been acquitted for the allegation made against both of them. Further, in the explanation dated 05.03.1986, itself the I Party has denied the Memorandum of Charges and also said that on account of non furnishing of the Photostat copies of the said bills he could only say that he has never forged the said bills and he has never encashed them. Further, the Enquiry Officer in his report dated 31.01.1989, has taken into consideration the evidence of management witnesses and also ultimately held that forgery has to be dealt with by handwriting experts and it is not possible for others to say anything definite about the forgery alleged to have been committed. Further, on careful consideration of materials on record it is apparent that, the II Party has given reinstatement, back wages and other benefits to co-accused Shri. H. Laxmipathi naik and I Party has not been granted any benefits and thus, there is victimization, unfair labour practice and malafides in the action taken by the II Party, for the above mentioned reasons. Further, the MW-1, has admitted that, he is not having personal knowledge about the incidents in dispute, and he does not know as to whether the bills in question contained counter signatures of the Secretary, T.B.Board, and he has not seen the bills in question and after one and half year only the fraudulent act has been detected. Further, the MW-2, has also admitted that, he has been appointed as an Enquiry Officer to conduct the enquiry as against the I Party, and he has not stated anything about the proving of the charges.

9. Further, it is established that the, I Party has submitted credible and weighty materials on record to establish that the I Party is entitled to get reinstatement/all monetary benefits, continuity of service, back wages, as already granted to co-accused Shri. H. Laxmipathi naik, by the II Party. Further, the II Party has not established anything worthwhile to dispute the claim of the I Party, based upon the material records filed herein. Further, it is pointed out in the written submission filed on behalf of II Party that the standard of proof required in the Criminal Case is much higher than the standard of proof required in Departmental Enquiry. In the present case also, in the above mentioned, criminal revision both I Party and Shri. H. Laxmipathi naik have been acquitted by the Hon'ble High Court of Karnataka. Therefore, the submission of the I Party, that he is not guilt of the allegation is further strengthened by the Judgment passed by the Hon'ble Karnataka High Court in the above mentioned Criminal Revision case judgment. Further, it is pointed in the Written submissions filed on behalf of II Party dated 23.12.2002, that the Disciplinary Authority may differ from the findings of the Enquiry Officer and also, may pass an order based on the evidence on record and accordingly, the I Party has been convicted for forgery and misappropriation, while in service. However, it is found that the Hon'ble Karnataka High Court in the said Criminal Revision case acquitted both I Party and Shri. H. Laxmipathi naik. Further, the I Party has pointed out in the claim statement that I Party has made to suffer mental agony, economic hardships and he has suffered a lot during all these years and therefore he is eligible for full back wages from II Party.

10. Further, in the evidence also, I Party has stated, all of a sudden he has been dismissed from service by II Party, and he has not worked anywhere. In the written submission of II Party dated 23.12.2002 it has been stated that, I Party has been employed elsewhere all these years. However, the said statement has not been established in an acceptable manner by the II Party. Further, in the written arguments dated 14.09.2009, I Party has pointed out that, I Party is a married man having children's and he has faced 15 years of unemployment and he is not having any age factor, to find employment, elsewhere. Further, it is evident that, there is illegality and irregularity in the action taken by the II Party as against the I Party, though the co-accused Shri. H. Laxmipathi naik has been reinstated with full back wages. Further, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of "inequality of bargaining power". He began his discussion on this part of the case by stating (at page 763): "There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall." Further, in the Judgment reported in ILR 1998 KAR 18 BEFORE Mr. Justice R.P. SETHI AND Mr. Justice S.R. BANNURMATH, J in the case of The Management of the Mysore Coffee Processing co- operative Society Ltd Vs Presiding Officer, it is particularly held that, "Where the Management discharges a workman by an Order which is void for want of an Enquiry, the "Doctrine of Relation" back cannot be invoked and in that event the workman would be entitled to the grant of Full back wages from the date of termination of his services till the date of award of the Labour Court." In the present case also, it is seen that, the I Party has established that he is entitled to get full back wages, from the II Party. For the above mentioned various reasons and grounds, it is held that the I Party is entitled to get relief, as prayed in the claim statement.

11. Further, it is also clear that, the allegations made as against I Party has not been established by the II Party as per the principles of preponderance of probability and it is also apparent that the, I Party has not been terminated by the II Party, by following the due process of law. Further, it is established that, there is discrimination and violation of right, caused to the I Party by II Party by not providing employment to I Party and at the same time providing employment, back wages and other benefits to co-accused Shri. H. Laxmipathi naik. Further, it is found that, the allegations have not been proved by the II Party, after following the due procedure as laid down by law and also by following the principles of natural justice. Thus, the points are answered, in favour of the I Party.

AWARD

The II Party/Management is not justified in imposing the punishment of dismissal from the service of I party/R. Venkateswara Rao, and II Party, is directed to reinstate/ to grant all monetary benefits to the I Party with continuity of service, and other consequential benefits that he would have received in the absence of the impugned punishment of dismissal from service, with full back wages, and the present reference is answered in favour of the I Party, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 12th June, 2017)

V. S. RAVI, Presiding Officer

List of Witness on the side of I Party:(V)

WW 1	Sh. Venkateswara Rao, I Party/ workman

List of Witness on the side of II Party:(V)

MW 1	Sh. Vijay Chandapur, Engineer
MW 2	Sh. K. Lakshminarayana Rao

Exhibit marked on behalf of I Party:(V)

Exhibits	Date	Description of Document
Ex W-1	26.05.1989	Charges
Ex W-2	05.03.1986	Explanation to Confidential Memorandum of Charges
Ex W-3	06.10.1986	Notice to appear before the Enquiry

Exhibit marked on behalf of II Party: (V)

Exhibits	Date	Description of Document
Ex M-1	01.10.1985	Suspension Order issued to I Party
Ex M-2	18.04.1987	Statement of Balakrishnan before Enquiry Officer
Ex M-3	04.05.1987	Statement of Singit before Enquiry Officer
Ex M-4	17.06.1987	Statement of Badri before Enquiry Officer
Ex M-5	19.08.1987	Statement of Dixit before Enquiry Officer
Ex M-6	15.12.1987	Statement of Vijayalakshmi before Enquiry Officer
Ex M-7	15.12.1987	Statement of Somasekara before Enquiry Officer
Ex M-8	17.12.1987	Statement of Nagaraj before Enquiry Officer
Ex M-9	10.05.1988	Examination of Delinquent by Enquiry Officer
Ex M-10	05.07.1988	Examination by Delinquent
Ex M-11	12.07.1988	Cross Examination by Delinquent
Ex M-12	04.11.1988	Examination by Delinquent
Ex M-13	07.02.1986	Memorandum

नई दिल्ली, 22 फरवरी, 2018

का.आ. 389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मणिपाल विश्वविद्यलय, माधव नगर, मणिपाल और उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय**, **बैंगलोर** के पंचाट **(संदर्भ संख्या 43/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.12.2017 को प्राप्त हुआ थे।

[सं. एल-42012/22/2011-आई.आर. (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 43/2011)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Manipal University, Madhava Nagar, Manipal and their workman** which was received by the Central Government on 13.12.2017.

[No. L-42012/22/2011-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 14th NOVEMBER 2017

PRESENT : **Shri V.S. RAVI;**

Presiding Officer

C.R. No. 43/2011

I Party	**II Party**
Sh. Y Panduranga Shettigar,	Manipal University,
S/o. Veerappa Shettigar	Madhava Nagar,
R/at Yekkar, Near Perumude Church, Perumude, Bajpe,	Manipal – 576104.
Mangalore – 574509	Represented by its Registrar
Advocate for I Party :	Advocate for II Party :
Mr. K.B. Arasa	Ms. Latha C.S. Holla

AWARD

1. The Central Government vide Order No.L-42012/22/2011-IR(DU) dated 13.10.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether Shri Y. Panduranga Shettigar, ex-employee of Manipal University, is justified in demanding payment of retrenchment compensation as provided under section 25F or 25N upon his compulsory retirement from service by the management of Manipal University, Manipal? What relief the workman is entitled to?"

2. The I Party has prayed in the claim statement as follows:-

After notice to the II Party the Tribunal may be pleased to direct the II Party to compute and pay to the I Party such terminal benefits including leave benefit and retrenchment compensation as also salary for the period the I Party has been under suspension prior to the termination of his services, as this Tribunal may deem fit and just.

3. However, a Joint memo filed by both the parties, dated 12-09-2017. It is clearly stated that both the parties have amicably settled the above dispute and made a Memorandum of Settlement under section 18(1) and section 2(p) of the Industrial Disputes Act, 1947. In view of the settlement between the parties, the I party herein does not press for any and further reliefs in the above case. Therefore, it is prayed that, the Court may be pleased to conclude the proceedings and dispose of the case as settled between the parties out of the Court. The said joint memo is filed and signed by counsel and parties of both sides and the settlement is in order. Hence, the same is recorded and the joint memo filed by the parties dated 12-09-2017 is to be treated as part and parcel of the award for better and proper understanding of the settlement arrived at, in between the parties. Consequently the present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017. Hence, the award is passed accordingly, for the above mentioned reasons.

AWARD

The present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017.

(Dictated, transcribed, corrected and signed by me on 14th November, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 390.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मणिपाल विश्वविद्यलय, माधव नगर, मणिपाल और उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय**, **बैंगलोर** के पंचाट **(संदर्भ संख्या 17/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.12.2017 को प्राप्त हुआ थे।

[सं. एल-42012/259/2010-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 390.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 17/2011)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Manipal University, Madhava Nagar, Manipal and their workman** which was received by the Central Government on 13.12.2017.

[No. L-42012/259/2010-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT BANGALORE

DATED : 14th NOVEMBER, 2017

PRESENT : **Shri V.S. RAVI;**
Presiding Officer

C.R. No. 17/2011

I Party	**II Party**
The General Secretary,	The Registrar,
Manipal University Mazdoor Union (R),	Manipal University,
C/o B.M.S. Office, Felix Pai Bazaar,	Madhav Nagar,
Mangalore – 575001.	Manipal – 576104.
Advocate for I Party :	Advocate for II Party :
Mr. K.B. Arasa	Mr. K.S. Bhat

AWARD

1. The Central Government vide Order No.L-42012/259/2010-IR(DU) dated 11.05.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2 (A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the Management of Manipal University, in dismissing Shri H.K. Narasimha who was engaged in House Keeping work, from services w.e.f 09.02.2009 is legal and justified? What relief the workman is entitled to?"

2. The I Party has prayed in the claim statement as follows:-

To set aside the dismissal order issued to Mr. Narasimha H.K. w.e.f 09.02.2009 and thereafter to reinstate him in his original post with continuity of service, full back wages and all other consequential benefits in the interest of Justice, Equity and Fair-play.

3. However, a Joint memo filed by both the parties, dated 12-09-2017. It is clearly stated that both the parties have amicably settled the above dispute and made a Memorandum of Settlement under section 18(1) and section 2(p) of the Industrial Disputes Act, 1947. In view of the settlement between the parties, the I party herein does not press for any and further reliefs in the above case. Therefore, it is prayed that, the Court may be pleased to conclude the proceedings and dispose of the case as settled between the parties out of the Court. The said joint memo is filed and signed by counsel and parties of both sides and the settlement is in order. Hence, the same is recorded and the joint memo filed by the parties dated 12-09-2017 is to be treated as part and parcel of the award for better and proper understanding of the settlement arrived at, in between the parties. Consequently the present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017. Hence, the award is passed accordingly, for the above mentioned reasons.

AWARD

The present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017.

(Dictated, transcribed, corrected and signed by me on 14th November, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 391.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मणिपाल विश्वविद्यलय, माधव नगर, मणिपाल और उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय**, **बैंगलोर** के पंचाट **(संदर्भ संख्या 07/2010)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.12.2017 को प्राप्त हुआ थे।

[सं. एल-42012/107/2009-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 07/2010)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Manipal University, Madhava Nagar, Manipal and their workman** which was received by the Central Government on 13.12.2017.

[No. L-42012/107/2009-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 14th NOVEMBER, 2017

PRESENT : **Shri V.S. RAVI;** Presiding Officer

C.R. No. 07/2010

I Party	**II Party**
Sh. Ravindera Nayak,	The Registrar,
S/o Shri Sundar Nayak,	Manipal University,
'Anugraha', Moodu Sagri,	Madhav Nagar,
Kunjibettu, Udupi,	Manipal – 576104.
Dakshina Kannada Dist.	Represented by its Registrar
Advocate for I Party :	Advocate for II Party :
Mr. K. B. Arasa :	Ms. Latha C.S. Holla

AWARD

1. The Central Government *vide* Order No. L-42012/107/2009-IR(DU) dated 28.01.2010 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of Welcom Group Graduate School of Hotel Administration in termination the services of their workman Shri Ravindera Nayak w.e.f 23.06.2006 is legal and justified? If not, What relief the workman is entitled to?"

2. The I Party has prayed in the claim statement as follows:-

a) That an Award may be passed holding the dismissal unlawful and unjustifiable.

b) That the II Party Employers may be directed to re-employ the I Party workman in the place in which he had been in employment before dismissal and pay the wages due to him from the date of suspension to the date of re-employment with all consequential benefits available under the rules and

c) pay the cost of conducting this case to the I Party.

3. However, a Joint memo filed by both the parties, dated 12-09-2017. It is clearly stated that both the parties have amicably settled the above dispute and made a Memorandum of Settlement under section 18(1) and section 2(p) of the Industrial Disputes Act, 1947. In view of the settlement between the parties, the I party herein does not press for any and further reliefs in the above case. Therefore, it is prayed that, the Court may be pleased to conclude the proceedings and dispose of the case as settled between the parties out of the Court. The said joint memo is filed and signed by counsel and parties of both sides and the settlement is in order. Hence, the same is recorded and the joint memo filed by the parties dated 12-09-2017 is to be treated as part and parcel of the award for better and proper understanding of the settlement arrived at, in between the parties. Consequently the present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017. Hence, the award is passed accordingly, for the above mentioned reasons.

AWARD

The present central reference is disposed, as settled in between the parties, out of, court as per the request made in the joint memo dated 12-09-2017.

(Dictated, transcribed, corrected and signed by me on 14th November, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 392.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, बैंगलोर एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या 27/2016)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/10/2017 को प्राप्त हुआ था ।

[सं. एल-42012/61/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 392 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 27/2016)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **General Manager, Hindustan Aeronautics Ltd., Bangalore and their workman** which was received by the Central Government on 26.10.2017.

[No. L-42012/61/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 13th OCTOBER, 2017

PRESENT : Shri V. S. RAVI, Presiding Officer

C. R. No. 27/2016

I Party	**II Party**
Sh. Karumbaiah N.S. & 63 Others,	The General Manager,
6351 Department, Helicopter	Hindustan Aeronautics Limited,
Division, HAL,	Helicopter Division,
Bangalore - 560017	Bangalore – 560017
Advocates for I Party:	Advocates for II Party:
Mr. V. S. Naik & Ms. V. Malathi	Mr. S. V. Shastri & Mr. Ravindranatha .K

AWARD

1. The Central Government vide Order No.L-42012/61/2016-IR(DU) dated 04.07.2016 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the demand of Shri Karumbaiah & 63 Others for granting the Special Process Allowance of Rs. 25-00 per day to them is legal and justified? If so, what relief are they entitled to?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) Answer the point of dispute in favour of the I Party holding that, the I Party workmen are entitled for Special Process Allowance of Rs. 25/- per day (Rupees twenty five per day) w.e.f. 01.01.2007 and with further directions to the II Party Management to pay the arrears of Special Pay Allowance and to continue to pay the same every month and pass such other order or orders as deemed necessary in the interest of justice and fair play.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to

the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the point of dispute in favour of the I Party holding that, the I Party workmen are entitled for Special Process Allowance of Rs. 25/- per day (Rupees twenty five per day) w.e.f. 01.01.2007 and with further directions to the II Party Management to pay the arrears of Special Pay Allowance and to continue to pay the same every month and pass such other order or orders as deemed necessary in the interest of justice and fair play.

6. Further, in the Written Arguments filed on behalf of I Party, it has been pointed out that, on the issue relating to maintainability of the dispute, this Tribunal by referring to the judgment of the Hon'ble Supreme Court of India dated 26.02.2016 in C.A. No. 9332-9333/2010 in the case of Nashik Workers Union Vs HAL has called upon the parties to examine and submit with regard to maintainability of the dispute on the ground that in respect of the dispute pertaining to HAL the appropriate Government is the State Government.

7. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not raised any appropriate, suitable, tenable and proper objection regarding the said details, in accordance with law. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 13th October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 393.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **प्रबंध निदेशक, हिंदुस्तान एयरोनाटिक्स लिमिटेड, बैंगलोर और अन्य एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या–09/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/10/2017 को प्राप्त हुआ था।

[सं. एल-42011/02/2010-आईआर (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 393.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 09/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Managing Director, Hindustan Aeronautics Ltd., Bangalore & others and their workman** which was received by the Central Government on 25/10/2017.

[No. L-42011/02/2010-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 13th OCTOBER 2017

PRESENT : **Shri V S RAVI,** Presiding Officer

C R No. 09/2013

I Party	**II Party**
Sh. M.N. Krishnan & 16 others, Mechanic (E), Jaguar Final Assembly, HAL (BC), Aircraft Division, Bangalore – 560017.	1. The Managing Director, HAL, HAL Complex, Bangalore – 560017. 2. The General Manager, HAL, Overhaul Division, HAL (BC), Bangalore – 560017. 3. The General Manager, HAL, Aircraft Division, HAL(BC), Bangalore- 560017.
Advocates for I Party: Mr. V. S. Naik & Mr. Raghavendra	Advocates for II Party: Mr. T. Rajaram & Associates

AWARD

1. The Central Government vide Order No.L-42011/02/2010-IR(DU) dated 28.03.2013 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of Aircraft Division, HAL(BC), Bangalore, in denying promotion and other service benefits to Shri. M.N. Krishnan & 16 Others(list enclosed), is legal and justified? What relief the workmen are entitled to?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) Answer the points of dispute in favour of the workmen by holding that the Management of HAL is not justified in denying promotion and other service benefits to the I Party workmen and with further directions to direct the II Party to extend the benefit of promotion and all other service benefits including consequential pay fixation and arrears of salary and pass such other order or orders as deemed necessary to meet the ends of justice.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the points of dispute in favour of the workmen by holding that the Management of HAL is not justified in denying promotion and other service benefits to the I Party workmen and with further directions to direct the II Party to extend the benefit of promotion and all other service benefits including consequential pay fixation and arrears of salary and pass such other order or orders as deemed necessary to meet the ends of justice.

6. Further, in the Written Arguments filed on behalf of I Party, it has been pointed out that, on the issue relating to maintainability of the dispute, this Tribunal by referring to the judgment of the Hon'ble Supreme Court of India dated 26.02.2016 in C.A. No. 9332-9333/2010 in the case of Nashik Workers Union Vs HAL has called upon the parties to examine and submit with regard to maintainability of the dispute on the ground that in respect of the dispute pertaining to HAL the appropriate Government is the State Government.

7. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not raised any appropriate, tenable suitable and proper objection, regarding the said details, in accordance with law. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 13th October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 394.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **अध्यक्ष, हिंदुस्तान एयरोनाटिक्स लिमिटेड, बैंगलोर और अन्य एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय**, **बैंगलोर** के पंचाट **(संदर्भ संख्या–01/2015)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.11.2017 को प्राप्त हुआ था।

[सं. एल-14011/26/2014-आईआर (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 394.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**CR No. 01/2015**) of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Chairman, Hindustan Aeronautics Ltd., Bangalore & others and their workman** which was received by the Central Government on 17.11.2017.

[No. L-14011/26/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 31st OCTOBER 2017

PRESENT : **Shri V S RAVI,** Presiding Officer

C R No. 01/2015

I Party

The President,

HAL Permanent Casual Employees Association,

HAL Vimanapura,

Bangalore – 560017.

II Party

1. The Chairman, Hindustan Aeronautics Limited, 15/1, Cubbon Road, Bangalore - 560001
2. The Deputy General Manager (HR), Hindustan Aeronautics Limited, ARDC Design Complex, Vimanapura, Bangalore - 560037

Advocate for I Party:	Advocates for II Party:
Mr. G.V.P. Reddy	Mr. N.S. Narasimha Swamy &
	Mr. Thulasiram Singh B.K.

AWARD

1. The Central Government vide Order No.L-14011/26/2014-IR(DU) dated 05.01.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the dispute raised by the workman Shri. M. Rajaiah in changing the date of birth in the service records from 03.02.1953 to 03.02.1958 at the end of his service is valid? If not, to what relief the workmen is entitled to?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) Direct the II Party to correct the date of birth of the claimant workman as 03.02.1958, in the service records of the II Party and consequently,

b) Direct the II Party to reinstate the workman/claimant to the service of the II Party.

c) Direct the II Party to pay the back wages from the date of superannuation till the date of reinstatement.

d) Direct the II Party to pay the compensation in the interest of justice and equity.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the points of dispute in favour of the workmen by correcting the date of birth of the claimant workman as 03.02.1958, in the service records of the II Party and consequently, to direct the II Party to reinstate with back wages and pass such other order or orders as deemed necessary to meet the ends of justice.

6. Further, this Tribunal by referring to the judgment of the Hon'ble Supreme Court of India dated 26.02.2016 in C.A. No. 9332-9333/2010 in the case of Nashik Workers Union Vs HAL has called upon the parties to examine and submit with regard to maintainability of the dispute on the ground that in respect of the dispute pertaining to HAL the appropriate government is the State Government.

7. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not raised any appropriate, tenable suitable and proper objection, regarding the said details, in accordance with law. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 31st October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **महाप्रबंधक, (एचआरडी), भारत अर्थ मूवर्स लिमिटेड, बैंगलोर और अन्य एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या–13/2014)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.11.2017 को प्राप्त हुआ **था।**

[सं. एल-14011/04/2014-आईआर (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 13/2014)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **General Manager (HRD), Bharat Earth Movers Ltd., Bangalore & others and their workman** which was received by the Central Government on 17.11.2017.

[No. L-14011/04/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 01st NOVEMBER 2017

PRESENT : **Shri V S RAVI**

Presiding Officer

C R No. 13/2014

I Party

The General Secretary,

BEML Contract Workers Union,
Bangalore Complex,

New Thippasandra Post,

Bangalore – 560075.

II Party

1. The General Manager (HRD), Bharat Earth Movers Ltd.,
   Bangalore Complex, New Thippasandra Post, Bangalore – 560075.
2. The Management of M/s Bejee Contractors, C/o the BEML,
   Bangalore Complex, New Thippasandra Post, Bangalore – 560075
3. The Management M/s. Creative Contractors, C/o the BEML,
   Bangalore Complex, New Thippasandra Post, Bangalore – 560075
4. The Management M/s. Amps Contracts, C/o the BEML,
   Bangalore Complex, New Thippasandra Post, Bangalore – 560075

Advocates for I Party:

Mr. Cliftion D' Rozario &

Mr. Raghupathi.S

AWARD

1. The Central Government vide Order No. L-14011/04/2014-IR(DU) dated 20.03.2014 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the charter of demands raised by the union and denial by the management is valid? If not, what relief can be given to the aggrieved workmen?"

2. Perused the materials on record. It is clearly stated in the letter dated 30.10.2017 signed by S.Govinda Raju, General Secretary as follows:- "Sub: Compliance Report of the terms and conditions of MOU dated 30.08.2017. In view of the settlement arrived at between the parties, copy of which is annexured herewith, we confirm that, the terms

and conditions in this agreement are fully implemented. Hence, we are filing this Report of implementation stating that, the dispute is settled and we confirm that all the points of disputes raised in the claim statement are satisfied." Further, the Memorandum of Settlement entered into between M/s. AMPS Facilities Management Services Pvt Ltd and Contract Labour (TCL Workers) Represented by BEML WCL Public Sector Workers Union, Bangalore Complex dated 30.08.2017 is enclosed as Annexure-A. Further, in the Memo of withdrawal dated 13.10.2017, it is stated as follows:- "The I Party herein has raised the above industrial dispute making various claims against the II Party. The I Party and II Party No. 2 to 4 had discussion and has arrived at a settlement before the conciliation officer and in the presence of II Party No.1 under section 12(3) r/w section 18(3) of the industrial act 1947. A copy of the said settlement is produced herewith and marked as Annexure –A. Therefore, the I Party, most respectfully prays that, this Court may be pleased to record the settlement and to dismiss the dispute as not pressed in the interest of justice and equity."

3. Today, S.Govinda Raju, General Secretary with Mob. 9620159192 present and also Ms. Divya, Senior Manager legal for II Party present and also confirmed the above mentioned details. On perusal of records it is seen that, the dispute is settled and the CR has to be dismissed as not pressed as per the memo of withdrawal dated 13.10.2017 filed on behalf of I Party.

AWARD

The Memo of Withdrawal dated 13.10.2017 and Compliance Report dated 30.10.2017 and Memorandum of Settlement dated 30.08.2017 are to be treated as the part of the present award for better and proper understanding of the settlement and the dispute is dismissed as not pressed, as per the request made in the memo of withdrawal dated 13.10.2017.

(Dictated, transcribed, corrected and signed by me on 01st November, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 396.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **उप-महाप्रबंधक, हिंदुस्तान एयरोनाटिक्स लिमिटेड, बैंगलोर और अन्य एवं उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या–11/2014)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.10.2017 को प्राप्त हुआ था।

[सं. एल-14011/02/2014-आई.आर. (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 396.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**CR No. 11/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Deputy General Manager, Hindustan Aeronautics Ltd., Bangalore & others and their workman** which was received by the Central Government on 03.10.2017.

[No. L-14011/02/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 21st SEPTEMBER 2017

PRESENT : **Shri V S RAVI**

Presiding Officer

C R No. 11/2014

I Party	**II Party**
The General Secretary, Hindustan Aeronautics Employees Association, Vimanapura Post, Bangalore - 560017	1. The Deputy General Manager, Hindustan Aeronautics Limited, Engine Division, Bangalore Complex, PB No. 9310, Bangalore – 560093 2. The Union of India, Represented by Ministry of Defence, South Block, New Delhi.
Advocates for I Party: Mr. Vishwanath Bhat, Mr. B.D. Kuttappa & Mr. Harish Kumar	Advocate for II Party Sl. No. 1, Mr. S.V. Shastri

AWARD

1. The Central Government vide Order No.L-14011/02/2014-IR(DU) dated 27.01.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the action of the management of HAL Bangalore is justified in not implementing the second order of the appellate authority vide order No. E/HR/App/617/10955/2010, dated 31.08.2010 by which the management of HAL has modified the punishment of stoppage of 5 increments with cumulative effect to stoppage of 2 annual increments without cumulative effects? If not, to what relief the said 4 workmen are entitled to?"

2. The I Party submitted in the claim statement as follows:-

The I Party workmen prays this Court to answer the points of reference in favour of the I Party and direct the II Party management to implement the reviewing order of the Appellate Authority retrospectively and grant the I Party workmen all the consequential monetary benefits flowing there from and pass such other order or orders as deem fit by this Court including the costs of these proceedings, to meet the ends of justice.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to answer the points of reference in favour of the I Party and direct the II Party management to implement the reviewing order of the Appellate Authority retrospectively and grant the I Party workmen all the consequential monetary benefits flowing therefrom and pass such other order or orders as deem fit by this Court including the costs of these proceedings, to meet the ends of justice. Hence, it is crystal clear that as per the above mentioned judgment of the Hon'ble Supreme Court of India, this Court lacks jurisdiction to try the present matter.

6. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not disputed the said details, in an appropriate, suitable and proper manner. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 21st September, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2018

का.आ. 397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **सहायक महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, बैंगलोर और उनके कर्मचारी** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या–28/2014)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2017 को प्राप्त हुआ था।

[सं. एल-14012/16/2014-आई.आर. (डी.यू.)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 22nd February, 2018

S.O. 397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CR No. 28/2014)** of the **Central Government Industrial Tribunal-cum-Labour Court, Bangalore,** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the **Assistant General Manager, Hindustan Aeronautics Ltd., Bangalore and their workman** which was received by the Central Government on 17.10.2017.

[No. L-14012/16/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 06th OCTOBER 2017

PRESENT : **Shri V S RAVI**

Presiding Officer

C R No. 28/2014

I Party	**II Party**
Sh. S. Ganpathi, S/o late Subbaiah, GBJ, 141, 6th Cross, Marathahalli, Bangalore - 560037	The Assistant General Manager, Hindustan Aeronautics Limited, Bangalore Complex, Aircraft Division, P B No. 1788, Bangalore – 560017
Advocates for I Party: Mr. S.B Mukkannappa & Associates	Advocates for II Party: Mr. T. Rajaram & Associates

AWARD

1. The Central Government vide Order No.L-14012/16/2014-IR(DU) dated 18.07.2014 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

"Whether the order of dismissal of Sh. S. Ganapathi on the charges of Misappropriation of Rs. 3.45 Lakhs by the Management of Hindustan Aeronautics Ltd, Aircraft Division Management is justified? If not, to what relief the workman is entitled?"

2. The I Party has submitted in the claim statement as follows:-

The I Party prays this Court, to

a) set aside the order of dismissal bearing No. A/AGEM(F)/200/3364/2009; Dated 29.09.2008 passed by the II Party and consequently reinstate him into service with continuity of service and all other consequential benefits including full back wages from the date of dismissal till the date of reinstatement under the facts and circumstances of the case.

b) To issue any appropriate writ, order or orders as this Hon'ble Court that deems fit to accord under the facts and circumstances of this case.

3. However, in the Judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited, it is clearly held as follows:- "As we have set aside the order passed in L.P.A. No. 84 of 2006 and opined that the 'appropriate Government' in relation to the respondent company (HAL) is the State Government, the matter has to be remitted to the High Court for fresh adjudication on merits."

4. In the above mentioned facts and circumstances, an important and preliminary point arises for consideration, with regard to the above mentioned matter as follows:- "Whether this Court lacks jurisdiction to try the present Matter?"

5. **POINT :-** In the present case, the I Party has prayed to set aside the order of dismissal and to issue a direction to the II Party to reinstate the I Party back into his post, with continuity of service, all other consequential benefits and full back wages from the date of dismissal till his actual reinstatement and to pass any other appropriate orders, or directions as this Court may deem fit to pass under the facts and circumstances of this case.

6. Further, taking into consideration the above mentioned points and principles as laid down by the Lordships of the Hon'ble Supreme Court of India, this Court has no other alternative, except to follow the said judgement of the Hon'ble Supreme Court of India. In fact, the I Party has also not disputed the said details, in an appropriate, suitable and proper manner. At the same time, this Court is not expressing any opinion on other issues raised by both the sides, as this Court lacks jurisdiction to entertain the present matter of this nature and also liberty is granted to the I Party to raise the dispute before the proper, competent and appropriate Judicial Forum/Tribunal/Court within 30 days from the date of receipt of the present Award passed by this Court, in the best interest of justice, equity and fair play. Accordingly, this point is answered. Hence, the following Award is passed:-

AWARD

This Tribunal has no jurisdiction to entertain the dispute raised by the I party, particularly, in the light of the above mentioned judgement passed by the Hon'ble Supreme Court in Civil Appeal Nos. 9332-9333/2010, dated 26.02.2016, in the case of Nashik workers Union Vs Hindustan Aeronautics Limited and the present matter suffers for want of jurisdiction before this Court and liberty is given to the I party to raise the dispute before the proper, competent and appropriate Judicial Forum/ Tribunal/Court, within 30 days from the date of receipt of the present Award, by adopting the procedure known under the law, in the best interest of justice, equity, good conscience and fair play and this Court has not expressed any opinion regarding the various other issues raised by both the parties, as the present matter has been disposed of, on the limited ground of jurisdiction point alone, and also, without costs, for the above mentioned facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 06th October, 2017)

V. S. RAVI, Presiding Officer

नई दिल्ली, 26 फरवरी, 2018

का.आ. 398.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **भारतीय स्टेट बैंक** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर** के पंचाट **(संदर्भ संख्या–24/2009)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/02/2018 को प्राप्त हुआ था।

[सं. एल-12012/161/2008-आई.आर. (बी–1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th February, 2018

S.O. 398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 24/2009)** of the **Central Government Industrial Tribunal-cum-Labour Court, Jaipur,** as shown in the Annexure, in the Industrial Dispute between the **management of State Bank of India and their workman** received by the Central Government on 26/02/2018.

[No. L-12012/161/2008-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM LABOUR COURT, JAIPUR

BHARAT PANDEY

PRESIDING OFFICER

I.D. 24/2009

Reference No. L- 12012/161/2008-IR (B-I) Dated: 28.8.2009

Sri Shyamlal Agarwal

C/o Rajasthan State Bank employees

welfare Forum, Chaturvedi Bhawan, Indira Colony,

Behind Atta Temple,

Alwar – 301001.

V/S

The Asstt. General manager

State Bank of India

Nehru Place Tonk Road,

Jaipur.

AWARD

22.12.2017

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

"Whether the action of the management of State Bank of India through Asstt. General Manager, Jaipur in dismissing the services of Sri Shyamlal Agarwal, Assistant vide Order dated 11.4.2007 is fair and justified? If not what relief the workman concerned is entitled and from which date?"

2. According to statement of claim briefly fact of the case is that applicant Shyamlal was appointed as an Assistant w.e.f. 21.3.94 & was confirmed w.e.f. 21.9.94. In the year 2003 while posted at Ratangarh branch of State Bank of India applicant is alleged to have committed certain irregularities/ omissions relating to misappropriation of money related to customers of the bank.

3. On account of above allegations of irregularities he was suspended w.e.f. 27.1.2004 but later he was reinstated in the service suo-moto by opposite party & posted at S.B.I., Rawla Mandi branch w.e.f. 31.12.2004. During conciliation proceeding the management has stated in reply that Sh. Shyam Lal Agrawal was suspended w.e.f. 27.1.2004 & reinstated as per bank norms & posted at S.B.I., Rawala Mandi w.e.f. 31.12.2004.

4. The detail of legal & settled norms of the disciplinary action for S.B.I. employees are in para 521 of Sastry Award which has been further upheld by subsequent Bi-partite Settlements. In para 521 (10) (b) it has been laid down that pending enquiry delinquent may be suspended but on conclusion of enquiry if it is decided to take no action against the delinquent he shall be deemed to have been on duty & shall be entitled to the full wages & allowances.

5. It has been further alleged in para 7 of statement of claim that bank has no power of reinstatement of an employee who has been suspended from service for the allegations of gross misconduct until and unless on the basis of departmental enquiry it is decided to take no action against the delinquent.

6. It has been further alleged in para 8 of statement of claim that an FIR was lodged against the applicant Sh. Shyam Lal Agrawal on 21.12.2004 at P.S. Ratangarh, Distt. Churu (Raj.) by complainant Parmeshwarlal Singhania wherein final report was submitted by S.H.O., P.S., Ratangarh.

7. Further, it has been alleged that the management of the bank issued a charge sheet to the applicant Sh. Shyam Lal Agrawal vide letter No. ZOJ/R-IV/Staff/P&C/227 dated 31.12.2005 & an enquiry proceeding was held on the basis of above mentioned charge sheet. On the basis of enquiry on charge sheet applicant was dismissed from service w.e.f. 11.4.2007 vide Memo. No. R/IV/Staff/P&C/28 dated 11.4.2007 & appeal of the applicant against the order of dismissal by disciplinary authority was dismissed by appellate authority i.e. DGM, SBI, Z.O., Jaipur vide order dated 7.12.2007 which was communicated to the applicant vide letter dated 23.5.2007.

8. It has been submitted in para 13 of statement of claim that management of the bank violated the rules of natural justice & departmental rules as laid down in Bi-Partite Settlement. The decision of the disciplinary authority is not based on fact & is unfair, unjust, illegal & arbitrary. During course of enquiry complainant did not corroborate the contents of their complaint before the enquiry officer & the Presenting Officer. The Presenting Officer has failed to get the documents testified which have been filed by him before the enquiry officer hence, the documents could not be relied upon by the disciplinary authority for awarding the punishment.

9. Further in para 14 of statement of claim it has been alleged that the disciplinary authority has not considered charge wise replies submitted during personal hearing & he has failed to apply his mind fairly & judiciously hence, decision of the disciplinary authority on the basis of unproved charges is arbitrary & unjustified & has been reached without application of mind. It has also been alleged that there has been gross violation of principle of natural justice & relevant service rules hence, it has been prayed that dismissal order dated 11.4.2007 & appellate order dated 7.12.2007 may kindly be quashed & workman be reinstated in the service of the bank w.e.f. 11.4.2007 along with all consequential benefits.

10. Reply against the statement of claim by opposite party has been divided into two distinct parts wherein first part contains preliminary submissions & brief facts of the case & second part contains para wise reply to statement of claim.

11. In para wise reply to statement of claim it has been alleged that statement in para 1 needs no reply & statement in para 2 is not disputed. About para 3 of statement of claim it has been alleged that para no.3 has not been mentioned in statement of claim.

12. Statements in para 4 & 5 have not been admitted & statements in para 6,7,13 & 14 have been alleged to be wrong & denied. It has been alleged that statements in para 9,10,11 & 12 are not disputed.

13. Para 8 of the statement of claim has been admitted to the extent that First Information Report was lodged by Sh. Parmeshwar Lal Singhania against the applicant on 21.12.2004 & rest of the content have been denied. Further it has been alleged that applicant had built up pressure upon the complainant Sh. Parmeshwar Lal Singhania & pressed him hard to take back the report lodged against the applicant. The applicant had committed offence of misappropriation of money of the bank's customer hence, his services were terminated w.e.f. 11.4.2007. Further, it has been alleged in para 8 of the reply as under :-

" ……. It is worthwhile to mention here that repository of Public Trust and Money can not carry on its business with person of doubtful integrity and bonafides. In accordance with gravity of misconduct committed by Shri Shyam Lal Agarwal, serious action was to be taken so as to provide a suitable deterrent to others, hence his services were terminated. It is worth mentioning here that trust is the corner stone of Banking business and this view has been upheld by the Apex Court of the Country in various judgments. The doubtful integrity of a person like Shri Shyam Lal Agarwal can not be ignored and the applicant Shri Shyam Lal Agarwal is not entitled for any sympathy from this Hon'ble Tribunal."

14. Further, It has been alleged that the correct facts are that applicant while performing his duty at Ratangarh branch of the bank on the post of Assistant misappropriated the account holders/bank customer's money by adopting various illegal ways & malafide acts & consequently he was placed under suspension w.e.f. 27.1.2004 to 31.12.2004 & after revocation of suspension he was posted at SBI, Rawala Mandi branch on 3.1.2005. It has been further alleged that it is wrong to say that the legal & settled norms of disciplinary action for SBI employees are dully detailed in para 521 of Sastry Award which has been further upheld by Bi-partite Settlement. The respondent bank has taken action against the applicant as per terms & conditions of service applicable to the applicant who misappropriated the funds of the bank accounts holders i.e. Smt. Tasneem Shaukat, Shri Raj Kumar Gadgil, Shri Manoj Kumar Sharma & Shri Parmeshwar Lal etc. who made their respective complaints before the Branch Manager as & when the misappropriation of the funds came to their notice.

15. Against para 6 of statement of claim it has been alleged that in case of misappropriation of customer's funds by an employee the bank can suspend the employee & as per bank's norm during suspension period i.e. upto one year from the date of suspension the employee is entitled to half pay only. In the present case enquiry was pending against the applicant & he remained suspended w.e.f. 27.1.2004 to 31.12.2004. Further it has been alleged that suspension is an executive action which in effect results in debarring temporarily an employee from active service. It keeps the

employee out of duty & away from work situation during pendency of departmental or criminal proceeding against him for allegations usually of serious nature. The applicant is not entitled to full wages & allowances as stated by him in para 6 of statement of claim & this is not even the issue in the terms of reference.

16. It has been further alleged against para 7 of statement of claim that the word "reinstate" was used by the bank in good faith & in fact suspension of the applicant Sh. Shyam Lal Agrawal was revoked by the bank & the bank has power to do so looking into the fact & circumstances of the case. The applicant had misappropriated the money of account holders by adopting illegal acts hence, he was suspended during pendency of enquiry. First Information Report was also lodged by an aggrieved person on 21.12.2004 at P.S.Ratangarh, Distt: Churu whose money was also misappropriated by the applicant & investigation was pending at that time which prime facie shows that applicant was alleged to have committed offence of misappropriation of money.

17. Further, against para 13 of statement of claim it has been alleged that bank management has followed the principle of natural justice & also the rules laid down for conduct of disciplinary proceeding as envisaged in Bipartite Settlements. Services of the applicant was terminated by the bank on 11.4.2007 which was dully confirmed by the appellate authority by its order dated 7.12.2007 & decision of the appellate authority was communicated to the applicant. The presenting officer of the bank has dully testified the documents filed by the applicant. The applicant has a malafide intention in stating in para 13 of statement of claim that documents could not be relied upon by disciplinary authority while awarding punishment.

18. Against para 14 it has been alleged that the disciplinary authority has thoroughly considered charge wise reply submitted by applicant & has given thoughtful consideration by taking into account the pleas of defence representative & deposition of witnesses during enquiry . Further, it has been alleged that opportunity of personal hearing was also given to applicant Sh. Shyam Lal Agrawal. Charges against the applicant were proved & the enquiry was fair & judicious & the disciplinary authority has applied his mind fairly & judiciously. Applicant had misappropriated the customer's funds. The disciplinary authority on perusal of record & findings of the departmental enquiry decided to dismiss the applicant without notice. The charges levelled against the applicant were proved beyond reasonable doubt hence, he was punished with dismissal from service without notice. There is no violation of principle of natural justice & service conditions governing the employee in dismissing the services of the applicant from the bank. The disciplinary proceedings were completed as per prescribed rules & procedure by bank & in spite of this the opposite party reserves the right to prove the charges before the Hon'ble tribunal if tribunal feels that prescribed rules have not been followed during enquiry proceedings. It has been requested that statement of claim of the applicant be dismissed with heavy cost.

19. In preliminary submissions two points have been presented by the opposite party. The first submission is that dispute is not maintainable & the second submission is that there is no violation of principle of natural justice. According to first submission it has been alleged that reference made for adjudication is not an industrial dispute within the meaning of section 2(k) of Industrial Disputes Act, 1947 as per settled judgements of Courts. It has been submitted, " ……..that the present reference is invalid and illegal, as there is no proper and valid espousal of dispute, as contemplated under Section 2(k) of the Industrial Dispute Act. Neither the alleged dispute has been espoused by the SBI Staff Association, majority/recognized union of the workmen of the Bank nor it is supported by substantial number of workmen employees of the Bank. Hence the alleged individual dispute cannot be termed as an 'Industrial dispute' in view of the provisions of Section 2(k) of the Industrial Disputes Act, but is an individual dispute of Shri Shyam Lal Agarwal, the applicant. Therefore, the very reference is bad and unsustainable in law. This position is evident, inter-alia, from the following judgment of the Hon'ble Supreme Court.

20. In the case of Central Provinces Vs Raghunath reported in 1956 SCR, the Supreme Court held :-

"…….. The Scheme of the Industrial Disputes Act does appear to complete that the machinery provided therein should be set in motion, to settle only disputes which involve the rights of workmen as a class and that a dispute touching the individual rights of a workman was not intended to be the subject of any adjudication under the Act, when the same had not been taken up by the union or a number of workmen."

21. On the point of violation of principle of natural justice referring to the reported cases namely Damoh Panna Vs. Munna Lal (2005) 1 LLJ 730 & State of A.P. vs. Shri Ram Rao AIR (1963) SC 1723 it has been submitted, "……..the applicant was involved in grave and serious charges of misappropriation of customer's monies by illegal and unfair means constituting 'Gross Misconduct' while posted as Assistant at Ratangarh Branch, Distt. Churu, (Rajasthan). All the charges levelled against the applicant stood proved in the departmental inquiry. On the basis of documentary and oral evidence, the Enquiry Officer, Disciplinary Authority and the Appellate Authority held the charges as proved. The competent authority imposed the punishment of dismissal upon the Applicant workman after affording full and sufficient opportunity and even affording personal hearing to the workman. Hence, the inquiry was fair, judicious and proper in accordance with the terms and conditions of service applicable to the applicant. There has been no violation of any of the principles of natural justice. Therefore, the present reference is liable to be rejected. It is submitted that in institutions such as the Respondent Bank which is dealing with public money, a high degree of integrity, honesty and credibility is warranted from its officers/employees. It is further submitted that once integrity becomes doubtful and

further charges stand proved in the enquiry proceedings, the most likely punishment for such an employee/officer is dismissal from service. It has been held in a recent decision of the Hon'ble Supreme Court in Damoh Panna Vs. Munna Lal reported in (2005) I LLJ 730:

"The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscious of the court, in the sense that it was in defiance of logic or moral standards."

22. It has also been held by the Hon'ble Supreme Court in State of A.P. Vs. Shri Ram Rao reported in AIR (1963) SC 1723 :

"But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

That the Hon'ble Supreme Court has held that the Disciplinary Authority is the sole judge of the facts and evidences and where appeal is presented, the Appellate Authority has coextensive power to re-appreciate the evidence or the nature of punishment. (AIR 1963 SC 1723)."

23. Rejoinder has not been filed by applicant side & it has been mentioned in the order sheet dated 10.5.2011 that applicant side has alleged that rejoinder is not to be filed from applicant side.

24. Heard the arguments of the learned representative of the applicant Sh. Surendra Singh (Nalot), Advocate for applicant & Sh. Yashpal Garg, Advocate, learned representative of opposite party & perused the record carefully. After close of oral arguments on 11.10.2007 written argument also has been filed by the applicant on 25.10.2007. No written argument has been filed by opposite party.

25. Following judicial precedents have been referred from applicant side :-

1. (2010) 2 SCC 772, State of U.P & Ors. …..Appellant V/s Saroj Kumar Singh …..Respondent.

2. Court No.9, Writ- A No. 20337 of 1999, Shrish Singh ……Petitioner v/s Chairman, Gorakhpur Kshetriya Gramin Bank & others …..Respondents.

3. 2007(1) SCC 506, Jasbir Singh …..Appellant v/s Punjab & Sindh Bank & others …..Respondents.

4. R. Balakrishnan …….Petitioner v/s Food Corporation of India through its Managing Director & ors. ….Respondents. (decided on 7.2.2011 by Hon'ble Supreme Court).

5. (1998) III LLJ 501 M.P., State Bank of India v/s Central Government Industrial Tribunal Cum Labour Court & anr.

26. Following judicial precedents have been referred from the side of respondent :-

1. 2016 LAB I.C. 1433 (Patna High Court), Uma Shankar Jha …….Petitioner v/s The Punjab National Bank and others….Respondent.

2. 2005 LAB I.C. 461 (Supreme Court), J.A.Naiksatam….Appellant v/s Prothonotary and Senior Master, High Court of Bombay and others ….Respondents.

3. 2005 LAB I.C. 3682 (Supreme Court), State Bank of India and another….Appellants v/s Bela Bagchi and others….Respondents.

4. 2016 LAB I.C. (NOC) 333 (GAU.), Dambarudhas Barman ..Appellant v/s Central Bank of India & Ors ..Respondents.

5. 2016 LAB. I.C. 533 (Supreme Court), Prem Nath Bali …Appellant v/s Registrar, High Court of Delhi and another…..Respondents.

27. It has been argued by the learned representative of the applicant & has also been submitted in written argument by the applicant Sh. Shyam Lal Agrawal himself that the bank has failed to prove the charges levelled against the applicant. Further, it shall appear from perusal of the written argument submitted by Sh. Shyamlal that he has also raised certain issues connected with fairness of enquiry such as the forensic report submitted by bank as part of enquiry report on 9.12.15 in the tribunal was consisting of 13 page only & on another date (which has not been correctly mentioned in written argument & 9.12.15 has been wrongly repeated again) forensic report submitted to the tribunal consists of 18 page but during departmental enquiry he was not given the forensic report consisting of 18 page. Similarly another issue relating to enquiry proceeding has been mentioned in written argument by applicant that documents relating to enquiry were submitted by bank on 9.12.15 & 1.2.16 before tribunal as enquiry record but majority of the submitted documents on those dates were not given to applicant during enquiry proceeding due to which applicant could not cross examine the witnesses or could do the personal hearing due to which enquiry officer

could not give his finding. Further, it has been mentioned by applicant in his written argument on the point of punishment that there should have been charge wise punishment awarded to him which has not been done & quantum of punishment is excessive. Countering the above argument it has been argued by learned representative of opposite party that all the charges levelled against the applicant has been fully proved by opposite party by means of sufficient evidence & during domestic enquiry standard of proof required to be given by opposite party is not as required by prosecution to prove the charges before the criminal court. On the point of punishment it has been argued that punishment awarded to the applicant is proportionate to the guilt of the delinquent employee & it is no way disproportionate to the act of wrong committed by applicant. Reliance has been placed on the various cases decided by Hon'ble Supreme Court & High Courts. On the point of delivery of required documents & forensic reports & on the points of cross examination of the witnesses during enquiry proceeding as raised by applicant it has been submitted that the applicant has tried to mislead the tribunal by raising such issues at this stage because these matters have been dealt by tribunal at length during disposal of fairness of domestic enquiry & an order relating to this has already been passed on 23.1.2017 & requires no repetition.

28. Based on argument of both the parties before I proceed to discuss whether the charges levelled against the applicant has been proved by opposite party by reliable evidence I consider it necessary to mention in brief the detail of the enquiry proceeding & conduct of the parties during the proceeding which will be helpful in assessing the objections raised by applicant relating to enquiry proceeding although the matter has been dealt at length while disposing the point of fairness of enquiry vide order dated 23.1.2017.

29. The domestic enquiry against the applicant started on 30.5.2006. Sh. Dinesh Goyal, Presenting Officer (bank representative), Sh. Bhupesh Chawla, defence representative & applicant Sh. Shyamlal were present. Sh. Bhupesh Chawla, defence representative is the person of Sh. Shyamlal's choice & Sh. Bhupesh Chawla has been named by Sh. Shyamlal to be his defence representative. Charges levelled against Sh. Shyamlal has been read over & Sh. Bhupesh Chawla has acknowledged that he has listened to the charges carefully levelled against Sh. Shyamlal & alleged them to be baseless. Certified copy of documents (P-1 to P-24) relied upon for proving the charges have been given to defence representative on the direction of the enquiry officer which have been received by the defence representative & the receipt has been acknowledged by him. The defence representative has asked one month time to enquire & compare the document (P-1 to P-24) with original. Next date 19.6.2006 has been fixed for further proceeding.

30. On 19.6.06 enquiry proceeding has been postponed to 28.6.06 due to non-attendance of defence representative. On 28.6.06 also enquiry proceeding has been postponed due to non-attendance of defence representative & Sh. Shyamlal, applicant. On next date 8.7.06 defence representative & bank representative have been present & documents p-25 to p-50 have been given to defence representative who has received the documents & acknowledged the receipt. The defence representative has alleged he has not verified the documents P-1 to p-24 & he is proceeding to Ratangarh on 8.7.06 for verification of documents. The defence representative & bank representative have consented with enquiry officer to fix next date of hearing on 21.7.06.

31. On 21.7.06 defence representative, bank representative & Sh. Shyamlal were present. **The defence representative has alleged that he has compared the documents p-1 to p-50 with their original & further proceeding of producing witnesses may be taken up.** Management witnesses Sh. Rajkumar, Sh. Shankar Lal & Sh. Jaswant Singh have been examined by management & cross examined by defence representative. Sh. Rajkumar has proved documents Ex-p-8 & Ex-p-10. He has alleged about Ex-p-10 that he has submitted Ex-p-10 to the bank & he has signed the document Ex-p-10. He has further alleged that he had written Ex-p-8 also & had submitted it to the bank for taking his complaint back because he had received the money back. (It is pertinent to mention that money received by Sh. Rajkumar was the amount about which he had made complaint of misappropriation). Witness Sh. Shankar Lal has proved the document Ex-p-16 & alleged that he has written the letter Ex-p-16 dated 17.5.04. Sh. Jaswant Singh has supported & proved Ex-p-31 & has alleged that Ex-p-31 bears his signature. He has also proved cheque Ex-p-24 & alleged that cheque Ex-p-24 of a sum of Rs. 10,000/- was given to the witness by applicant/delinquent Sh. Shyamlal. He has further alleged that on 5.2.04 Sh. Girdharilal, father of Sh. Shyamlal met him & he got the money from Sh. Girdharilal. He has also alleged that after receipt of money he has no complaint. Management has closed its evidence. **The learned defence representative has alleged that he wants to produce witness in defence. Next date 29.7.06 was fixed for defence evidence.**

32. On 29.7.06, 5.8.06, 7.8.06, 14.8.06, 22.8.06 enquiry proceeding was adjourned due to non-attendance of learned defence representative & on 21.8.06 enquiry proceeding was adjourned due to non-attendance of applicant Sh. Shyamlal & the learned defence representative. On next date 29.8.06 Sh. Shyamlal applicant & Sh. Bhupesh Chawla, learned defence representative & Sh. Dinesh Goyal, learned bank representative were present. **Defence witness Sh. Vinod Khemka was produced in evidence by defence representative & has been cross examined after examination in chief.** Sh. Vinod Khmeka is the resident of Ratangarh who is a shopkeeper & he is having a saving account & locker in the Ratangarh branch of Punjab National Bank. The proceeding of the enquiry has ended on 29.8.06. Enquiry report dated 3.10.06 has been prepred by enquiry officer after considering the brief of applicant, presenting officer & record of the enquiry proceeding. A tentative decision of dismissal dated 3.1.2007 has been served upon Sh. Shyamlal Agrawal on 24.1.2007 through Zonal office memorandum dated 20.1.2007. Sh. Shyamlal Agrawal was given opportunity of personal hearing by disciplinary authority providing one week time but he did not appear. He was given another opportunity to appear on 7.2.2007 for personal hearing which was deferred to 19.2.2007, 26.2.207 &

13.3.2007 on personal request of Sh. Shyamlal. Personal hearing was attended by Sh. Shyamlal on 17.3.2007 with his defence representative Sh. V.K.Gupta, General Secretary, SBI Staff Association. Final order of the disciplinary authority has been passed about dismissal of Sh. Shyamlal Agrawal according to provision of para 6(a), Annexure II of the Memorandum of Settlement dated 10.4.2002 between IBA AAND WORKMAN Union. The order of appellate authority on appeal has been passed on 7.12.2007 confirming the order of dismissal by disciplinary authority.

33. Following conversation at the end of enquiry on 29.8.06 are the words of satisfaction of defence representative that during enquiry nothing has happened which indicate violation of the interest of the applicant. The defence representative has neither asked to enquiry officer that he desires handwriting expert to be summoned as defence witness nor he has expressed his desire to summon any other witness of management who needs to be cross examined by him. The referred conversation on 29.8.06 reads as under :-

E.O. to B.R. & D.R. - आपको इस Enquiry के बारे में कोई ओर तो नहीं पूछना है? या फिर इस इन्क्वायॅरी को समाप्त समझे।

B.R. & D.R. to E.O. –इसके बारे में हमें और कुछ भी नहीं पूछना इसे समाप्त समझा जावें। सारे Document दिये हुए है।

34. Now, as far as the question of determination of the fact whether charges levelled against the applicant have been proved by cogent & reliable evidence I consider it proper to mention the charges levelled against the applicant Sh. Shyamlal Agrawal & explanation offered by him against each charges which read as under:-

Sh. Shyam lal Agarwal, Asstt.

State Bank of India, Rawla Mandi.

****

State Bank of India, Zonal Office, R-IV,

Jaipur.

No. ZOJ/STAFF/R-IV/P&C227 December 31, 2005

PRIVATE & CONFIDENTIAL

Dear Sir,

STAFF : AWARD

DISCIPLINARY PROCEEDINGS

You, while posted at Ratangarh branch and performing the duties of Assistant, committed the following lapses/acts of misconduct :-

1. Smt. Tasneem shaukat deposited a sum of Rs. 6800/- on 8.9.2003 in her joint S.B.A/c No. 01190013882 on your cash counter. You have issued the counterfoil, but did not account for the amount in the Bank's books.

The amount has also not been credited in the depositor' s account by you. Subsequently, you have made an entry of Rs.6800/- in the Pass Book of the account bolder manually under your initials.

2. You have unauthorisedly withdrawn a sum of rs.5000/- on 11.10.2003 from the savings Bank Account No. 01190010193 of Shri Raj Kumar Gadgil, by forging the signature of the account holder on the withdrawal form and pocketed the money.

3. You unauthorisedly withdrew a sum of Rs.3000/- and rs.5000/- on 4.9.2003 and 13.9.2003 respectively from the S.B.A/c no. 01190007812 of Shri Mahadev Prasad by forging the signatures of the account holder on the withdrawal forms and pocketed the money. The payment of both these withdrawals was made without Pass Book as these entries do not appear in the Pass Book which is in contravention of the Bank' s laid down instructions.

4. You received a sum of Rs.7000/- for credit of S.B. A/c No. 01190012803 of Shri Manoj Kumar Sharma on 1.11.2003 on the counter and issued the counter foil, but you did not account for the amount in Bank' s books and pocketed the money.

5. You credited S.B.A/c No. 01190012803 on 31.12.2003 an amount of Rs.7000/- by debiting account No. 01190010678 in your own hand writing without any authorization from the account holder.

6. You issued a cheque bearing No. 536949 dated 1.2.2004 for rs.10,000/- without keeping sufficient balance in your current account No. 01090094052.

7. You received a sum of Rs. 12000/- for credit of savings Bank a/c No. 01190010807 from Shri Parmeshwar lal on 25.11.2003 on the counter and issued the counter foil, but did not account for the amount in Bank' s books.

8. You managed to obtain a computerized Pass Book bearing No. 000745 and issued the same to Shri Mahadev Prasad, S.B. A/c No. 01190007812 by making the entry of Rs.400/- on 8.12.2003 manually. This entry pertains to the difference amount of maturity value of two STDRs No. 441115 and 441114 aggregating Rs. 38888/- and issue of new STDR for Rs. 38,488/- in the name of account holder on 4.9.2003. The entries in the said Pass Book were confirmed by you with your signatures at the place meant for chief Manager.

The aforesaid lapses on your part, if proved would tantamount to Gross Misconduct in terms of Para 5(j) of Memorandum of Settlement dated 10.4.2002 on disciplinary action Procedure for Workmen read with para 521 of Sastry award and para 18.28 of Desai award You are, therefore, called upon to submit your reply within 15 days of receipt of this letter, failing which it will be presume that you have nothing to submit in your defense and the Bank will proceed against you as per award staff service Rules.

Yours faithfully,

(sd illegible)

Asstt. General Manager

(Disciplinary Authority)

Received copy

signature illegible

(Shyam Lal)

Discip/26

35. The reply of the applicant dated 23.1.2006 reads as under :-

सहायक महा प्रबन्धक,

भारतीय स्टेट बैंक,

आंचलिक कार्यालय,

5—नेहरू प्लेस,

जयपुर।

प्रेषक :— शाम लाल अग्रवाल

भारतीय स्टेट बैंक

रावला मण्डी

द्वारा शाखा प्रबन्धक भारतीय स्टेट बैंक रावला

आपके पत्र संख्या पी. एण्ड सी. 227, 31—12—05 के सन्दर्भ में

1. पेज संख्या पर लगे आरोप के अनुसार तासीम शोकत स्कूल में एक अध्यापिका है। एक बार वह मेरे पास पैसा जमा करवाने आई तो उसने कहा कि आप पास—बुक में भी प्रतिष्टी कर दें। क्योंकि प्रार्थी नकदी काऊण्टर पर बैठा हुआ था और मेरी आई.डी. से दूसरा कम्प्यूटर नहीं खुल सकता था और मेरी जानकारी अनुसार पास—बुक प्रिन्टर भी खराब चल रहा था तो मैनें उसको प्रविष्टी करने से मना किया तो मुझे उसने फिर बार—2 कहा कि भाई साहब आप किसी भी तरह पास—बुक में प्रविष्टी कर दें, तो जब मैं मैन्यूअल तौर पर प्रविष्टी करने लगा तो उसने कहा की भाई साहब एक 6800/—की प्रविष्टी और भी बकाया है और पिछले महिने जो कि जमा करवाई थी तो मैनें कहा कि रसीद है। उसने कहा कि घर पर पड़ी है मैने वह प्रविष्टी भी वैगरह रसीद देखे मैनुयल तौर पर ग्राहक सेवा को मध्य नजर रखते हुये कर दी फिर जैसे ही पास—बुक प्रिंटर सही हुआ तो उसकी पास—बुक में प्रविष्टी करनी चाही तो पता चला कि रू 6800/—की राशि इस खाते में जमा नहीं है फिर मेरे द्वारा उसी तारीख की स्क्रोल देखने पर पता चला कि उस तारीख में 6800/—की राशि की कोई प्रविष्टी किसी भी खाते में नहीं है। फिर उसके पति ने शिकायत कर दी जिस बात का मुझे कोई पता नहीं था जब मुझे शिकायत के विषय में पता चला तो मैं एवम् एक अन्य स्टॉफ सदस्य उसके घर पर गये तो तोसीम शोकत के पति ने यह कहा कि हमारे पास कोई भी रसीद नहीं है। हमारे से ऐसा भूलवश हो गया इस प्रकार से तोसिम शोकत के पास कोई भी 6800/—स्वीकार करने की रसीद नहीं है। और मेरे ऊपर लगा यह आरोप निराधार है।

2. पैरा संख्या 2 में लगे आरोप के अनुसार खाता संख्या 01190010193 में 11.10.03 को राशि एवं राज कुमार गाडगिल के द्वारा ही निकलवाई है। उस पर मैने फर्जी हस्ताक्षर करके किसी प्रकार की कोई भी राशि नहीं निकाली है। सम्पर्क करने पर एवम राज कुमार गाडगिल ने यह बात स्वीकार की है। और मुझे लिखित में दिया है। जिसकी फोटो कॉपी संलग्न है।

3. पैरा संख्या 3 में लगे आरोप के अनुसार श्री महादेव प्रसाद के द्वारा ही दिनांक 4.9.03 को एवं 13.9.03 को रुपये 3000/— और 5000/— की राशि स्वयं निकलवाई है। जिसमें से रु. 5000/— की राशि का भुगतान तो दूसरे काऊन्टर पर एवं दूसरे सहायक के द्वारा किया गया है ना कि मेरे द्वारा रु. 3000/— की राशि मेरे द्वारा किसी भी प्रकार के फर्जी हस्ताक्षर करने के बाद नहीं निकलवाई गई है। कैश काऊन्टर में प्रिन्टर नहीं था बल्कि कैश केबिन से बाहर होने के कारण मै तो पास—बुक देखकर ही भुगतान कर सकता था इस बाउचर पर स्वंय महादेव प्रसाद के ही हस्ताक्षर है मेरे द्वारा फर्जी हस्ताक्षर करके किसी भी प्रकार से राशि नहीं निकलाई गई है। अतः मेरे उपर लगा आरोप निराधार है।

4. पैरा संख्या 4 में लगे आरोप के अनुसार दिनांक 1.11.03 को मनोज कुमार शर्मा की बहन सरोज शर्मा के द्वारा कोई भी रू. 7000/–की राशि जमा नहीं करवाई गई है। यह मेरे उपर किसी के कहने से सरोज शर्मा द्वारा जबरदस्ती जानबूझकर आरोप लगाया गया है जो कि बिलकुल झूठा है।

5. पैरा संख्या 5 में लगे आरोप के अनुसार मनोज कुमार शर्मा के द्वारा जो की (सरोज शर्मा) का भाई है। के द्वारा 4.11.03 को राशि जमा करवाई गई थी लेकिन रसीद के ऊपर 1.11.03 गलती से लिखा हुआ था। मैनें राशि को स्वीकार करने के बाद जैसे ही कम्प्यूटर में पोस्ट करने लगा तो मूझे पता चला की इस बाउचर पर खाता नं. नहीं लिखा हुआ है कम्प्यूटर स्क्रीन पर मनोज कुमार शर्मा के नाम के सभी खाते निकाल एवं अपने अनुमान के अनुसार मैने गलती से खाता संख्या 10678 में जमा कर दिया क्योंकि प्रिन्टर खराब चल रहा था। और इसकी बहन (सरोज शर्मा) पास–बुक में प्रविष्टी करवाने 31.12.03 को आई तो पता चला की यह राशि खाता नं. 10678 मनोज कुमार शर्मा के खाते में जमा हो गई है। बाउचर निकलवाने एवं सही जानकारी प्राप्त करके मैने अपने स्तर पर खाता नं. 10678 (दुसरा मनोज कुमार शर्मा) को नाम करने के बाद वास्तविक खाता संख्या 12803 (सही मनोज कुमार शर्मा के खाते में जमा कर दी गई क्योंकि रु. 1500/–तक की हस्तान्तरण करने पॉवर एकल खिडकी सिस्टम को थी इसलिए मैने अपने स्तर पर बाउचर बनाकर कर दिया। अतः प्रार्थी के उपर लगा आरोप निराधार है।

6. पैरा संख्या 6 में लगे आरोप अनुसार यह चैक जिसकी चैक संख्या 536949 हैं। यह चैक जसवन्त सिंह नाम के आदमी को दिया गया था। जो कि हमारी रतनगढ़ शाखा का ग्राहक भी है। और उससे पहले वह सेना में कर्मचारी था और अक्सर मिलता जुलता रहता था एक दिन वह व्यक्ति बैंक में आया था एवं मुझसे कहने लगा कि यदि आपने सेना केन्टीन से कोई सामान मंगवाना हो तो मुझे कह देना मैं लाकर दे दूगां क्योंकि मैं सेना में रिटार्यड कर्मचारी हूँ फिर माह जनवरी 2004 में शाखा में आया तो मैनें उसको एक वाशिंग मशीन 6 किलोग्राम की ऑटा मैटिक लाने को कहा तो उसने कहा की हमारी केन्टीन बीकानेर में है। जिसके लिये मेरा समय भी खर्च होगा एवं बीकानेर भी जाना पडेगा और इसके खर्च के अलावा कुछ कमीशन भी लगेगा तो मैने उसको हां कर दी और अग्रिम राशि मांगी तो उसका मैने दिनांक 01.02.04 का चैक दे दिया। कुछ समय बाद मैनें अपने आप को बिमार महसूस किया और मेरे जिस जगह से पैसे आने थे वहां से पैसे आ भी नहीं पाये थे तो मैनें जसवन्त सिंह को मना कर दिया की अभी आप रूक जाना दो तीन महिने के बाद मंगवायेगे और मेरा चैक मुझे वापिस कर देना तो वह सख्त नाराज हो गया और कहने लगा कि मैने तो बीकानेर जाकर केन्टीन में मांग भी कर दी है। अब तो आपको लेनी पडेगी मैनें कहा कि पेसों की बन्दोबस्त नही हो रहा है। मुझे चेक वापिस दे दो। तो उसने कहा की आपको चैक तो वापिस कर दूगां लेकिन मैने जो मेहनत की है। उसका हर्जाना देना पडेगा मैंने देने से मना कर दिया अब इस बात से नाराज होकर उन्होने ना केवल चैक बैंक में लगाया बल्कि यह शिकायत भी कर दी शाम लाल अग्रवाल से 10,000/– लेने हैं। अब ना तो मैं यह बात सोच सकता था कि वह ऐसा मेरे साथ करेगा। जब उसने यह चैक बैंक में लगाया तो मैं स्वंय उस समय अपने गांव मण्डी डबवाली गया हुआ था फिर मैने उससे फोन पर सम्पर्क किया और यह चैक उसने लोटा दिया जिसकी छाया कॉपी संलग्न है। मुझे यह जानकारी नहीं थी कि यह ऑफिस को चैक बुक जारी की हुई है। मेरी मेज की अलमारी में यह चैक बुक रखी हुई थी और मैने यह अपनी समझकर उसमें से चैक काटकर दे दिया अतः जब सामान लाने को मैने मना कर दिया था तो खाते में पर्याप्त शेष नहीं रखा अतः मेरे उपर लगा आरोप निराधार है।

7. पैरा संख्या 7 में लगे आरोप के अनुसार परमेश्वर लाल सिंघानीयां ने 25.11.03 को कोई पैसा जमा करवाया था उसके पास जो रसीद थी उस पर मेरे हस्ताक्षर नहीं थे उसने इसके विरूद्ध ना केवल बैंक को बल्कि पुलिस थाना में भी शिकायत दर्ज करवाई थी अब न्यायालय एवं पुलिस ने अपनी तफ्तीश करके रिपोर्ट न्यायालय को दी तो मुझे न्यायालय से आज तक कुछ भी प्राप्त नहीं हुआ है फिर उसके बाद परमेश्वर लाल सिंघानिया ने स्वंय यह लिखकर दिया है कि मैने शाम लाल कैशियर को पैसे दिये ही नहीं थे। और उसने भूलवश रसीद जारी कर दी थी और मैनें लोगों के बहकावे में आकर शाम लाल के विरूद्ध गलती से शिकायत दर्ज करवा दी यह बात उसने मुझे लिखकर दी है। जिसकी छायां कॉपी संलग्न है। अतः मेरे उपर यह आरोप भी निराधार है।

8. यह है कि पैरा संख्या 8 में प्रार्थी पर जो आरोप लगाया गया है उसके अनुसार महादेव प्रसाद एक रिटायर्ड पुलिस कर्मचारी है उसने अपनी टी. डी. आर. की राशि अपने बचत खाते में हस्तान्तरित करवा ली थी और यह प्रविष्टि किसी दूसरे काउन्टर से हुई थी। जब जाने लगा तो मैनें पूछा दादा जी क्या बात है, आपने अपनी टी.डी.आर. का पैसा क्यों ले लिया तब उन्होने कहा कि मैं एक बूढ़ा व्यक्ति हूं और पता नहीं मेरी मृत्यु कब हो जाये। मेरे कहने पर एवं समझाने पर वह तीन महिने के लिए टी.डी.आर. बनाने को तैयार हो गया एवं मुझे कहा कि आप मुझे 400 रूपये नकद दे दो तब मैनें उनको उसी समय 400 रूपये नकद एवं टी.डी.आर बनाकर दे दी। और ग्राहक सेवा को मध्य नजर रखते हुए एंव उस बुढे आदमी को देखते हुए सभी वाउचर अपने हाथ से बना दिये एंव पोस्ट कर दिये।

महादेव प्रसाद जी के लडके का हमारी रतनगढ शाखा में मकान ऋण चल रहा था। शाखा प्रबन्धक ने मुझसे कहा कि यह आदमी पैसा नहीं भर रहा है। इसके घर जाकर आओ और मकान ऋण खाते में रुपये भरने को कहो। जब मैं इसके लडके के पास पहुचा तो मुझे पता चला कि यह लडका महादेव प्रसाद जी का है। जब मैनें लडके को कहा कि आप ऋण खाते में रुपये क्यों नहीं भर रहे। उसमें रुपये भरो नहीं तो आपके विरूद्ध कानूनी कार्यवाही हो जायेगी। जिस पर आने वाले खर्चे के भी आप स्वंय जिम्मेदार होगे उस समय महादेव जी पास में बैठे हुए थे। वे मेरे से नाराज हो गये कि मेरे लडके को ऐसा क्यों कहा। जो भी बात करनी थी मेरे लडके को शाखा में बुलाकर कहते। घर पर किसी के द्वारा रुपये भरने के लिए कोई बैंक कर्मचारी आकर कहता है, तो मेरी बेइज्जती होती है ना कि लडके की। फिर उसने कहा कि मुझे जो टी.डी.आर. बनाकर दी है उसका ब्याज पीछे की तारीख से मिलना चाहिए था जो कि मुझे नहीं मिला और यह 3–4 सौ रुपये बैठता है जब मैने उनको कहा कि आपने अपनी टी.डी.आर. बचत खाते में ही स्थानान्तरित करवा ली थी, तो वह पीछे की तारीख में नहीं बन सकती थी और पीछे का ब्याज नहीं मिल सकता था 8.12.03 को टी.डी.आर. दुबारा परिपक्वता हुई और वह उसका भुगतान लेने आया तो उसने मेरे को कहा कि यह टी.डी.आर. कुछ महिनों के लिए आगे बना दो एवं जो 400 रु. मैं ले गया था उसको मेरे बचत खाते में जमा कर दो मैनें बाउचर बनाकर उसके खाते में जमा कर दिये फिर वह शाखा प्रबन्धक के पास गये और उन्होने अपने 3–4 सौ रु. ब्याज के नुकसान की बात फिर दोहराई और कहा कि आगे से मेरे घर पर बैंक का कोई कर्मचारी ऋण वसूली हेतु मेरे घर पर ना आ आऐं लेकिन शाखा प्रबन्धक ने उसकी इस बात को मध्य नजर नहीं रखा बल्की पहले कि टी.डी.आर. के बाउचर निकलवाकर जो 400 रुपये वह रोकड मुझसे ले गया था उसकी शिकायत मुझे बगैर कोई बात बताये करवा दी जो कि सरासर झूठी है कृप्या नोट करे कि शिकायत भी महादेव प्रसाद जी के द्वारा 3 महिने व्यतीत हो जाने के बाद की है जो मैने उनको 400 रुपये नकद दिये थे उसके कुछ स्टाफ सदस्य भी गवाह है अर्थात मेरे उपर लगाया गया आरोप निराधार हैं।

अतः मेरा निवेदन है कि मैने आज तक बैंक का कार्य पूरी लग्न एवं निष्ठा से किया है। और मेरी 11 साल की बैंक सेवा एंव मेंरे और मेरे परिवार के भविष्य की और देखते हुए मुझसे अनजाने मे जो गलती हुई है उसे क्षमा करें और मैं आपसे वायदा करता हूँ कि भविष्य में ऐसी किसी भी प्रकार की गलती का मौका नहीं दूंगा।

इसी विश्वास के साथ

धन्यवाद

दिनांक

संलग्नः— हस्ताक्षर अपठनीय

1. कॉपी नोटिस
2. चैक संख्या 536949 की फोटो कॉपी
3. राजकुमार गाडगिल का लिखित बयान
4. परमेश्वर लाल सिघानिया का लिखित बयान
5. परमेश्वर लाल सिंघानिया के द्वारा लिखित स्टाम्प पेपर

प्रार्थी

हस्ताक्षर अपठनीय

23/01/06

हस्ताक्षर अपठनीय

शाम लाल अग्रवाल

सहायक

भारतीय स्टेट बैंक

Charge no.1

36. This charge is to the effect that Smt. Tasneem Shaukat deposited a sum of Rs.6800/- on 8.9.2003 in her joint account on the cash counter of the delinquent employee Sh. Shyamlal Agrawal. Sh. Shyamlal Agrawal issued the counterfoil, in testimony of the deposit but the amount so received by him was not accounted for in the banker's book, applicant further did not credit the amount in the account of depositor & subsequently made manual entry in the passbook of the account holder under his initial. It has been argued by learned counsel for applicant that opposite party has failed to prove the charge levelled against the applicant because the account number of Smt. Tasneem Shaukat is 01190013832 jointly shared by Sh. Shaukat Ali whereas the account number mentioned in the charge is 01190013882 hence charge does not stand proved. Further, it has been alleged that the account holder has not been produced for cross examination during enquiry proceeding which is against the principle of natural justice. Countering the above argument it has been argued by learned counsel for opposite party that in relation to this charge contention of the applicant is wrong that charge has not been proved & there is only clerical error in the charge wherein in place of 01190013832 which is the correct number of account of Smt. Tasneem Shaukat 01190013882 has been mentioned & rest of the information relating to the account is completely correct & applicant has admitted in his reply to charge memo that he has made the entry under his initial therefore, the account holder is not required to be produced in evidence.

37. From perusal of charge & argument of both the parties it is very clear that a clerical error has taken place in mentioning the account number in the charge wherein in the last two digits of the charge in place of 32 in the charge, 82 has been mentioned. If we go through other details connected with the detail of account holder it is clear that name of the account holder is Smt. Tasneem Shaukat which has been mentioned in the charge & from the perusal of the detail of account this fact is also undisputed that she is the joint holder of the account with her husband Sh. Shaukat Ali. In his written reply to the charge applicant has already admitted that he has made manual entry in the passbook of Smt. Tasneem Shaukat without confirming the deposit by perusing the counterfoil. He has tried to explain the reason for making such entry & has alleged that passbook printer was defective & looking into the spirit of customers service & repeated persuasion by Smt. Tasneem Shaukat he made the entry of Rs.6800/- without looking into the deposit slip. The delinquent has further alleged that he enquired about the counterfoil from Smt. Tasneem Shaukat & she replied that counterfoil is not in her possession & she alleged that the counterfoil is at her home, yet entries was made by him with a view of customer's service. He has further tried to explain the situation with contention that as soon as the printer became operational he tried to make entry in the passbook with the help of printer & came to know that Rs.6800/- does not find place in the deposit. Thereafter, he looked into the scroll of the date of deposit & came to know that there is no entry of Rs.6800/- in any of the account. Applicant has further as part of his explanation alleged that after this incident a complaint was made by her husband & when he became aware about the complaint he visited the house of Sh. Shaukat Ali along with one staff of the bank & enquired about the counterfoil of Rs.6800/- . In reply to the query Sh. Shaukat Ali replied that he is not in possession of the counterfoil. Applicant in closing lines of the

explanation has alleged that he has committed the act of making manual entry by mistake & as there is no counterfoil with Smt. Tasneem Shaukat hence, charge levelled against the applicant is baseless.

38. In relation to the explanation offered by Sh. Shyamlal Agrawal in reply to charge number 1, it is pertinent to mention that if Smt. Tasneem Shaukat was present even after making manual entry in the passbook & delinquent tried to make entry in the passbook with the help of printer because the printer had become operational then a natural question crops-up from the situation is that if the lady was present & after checking the scrolls of the date of alleged deposit of Rs.6800/-, no entry was found in any of the account or register, then why applicant did not struck off the manual entry made by him in the passbook of Smt. Tasneem Shaukat. It is also pertinent to mention that nothing has been mentioned by applicant that since when the printer was not operational & how it became operational soon after making manual entry by the applicant.

39. Copy of the passbook entry available on record shows that delinquent has made entry of Rs.6800/- just below the balance Rs.10937.47 & adding the amount of Rs.6800/- he has shown the balance as Rs.17737.47in manual writing. There is no dispute that delinquent has admitted that this entry has been made by him which is clear from his explanation submitted by him. At the time when this entry was made by the delinquent he had completed nearly 10 years of service & was well aware that making of such entry was against the rule & instruction that making of manual entry was prohibited in computerised passbook, yet he opted to make manual entry which is sufficient to suggest that applicant after receiving the money did not credit it to the customer account & made the entry to satisfy the lady account holder. It is also clear from circumstances of the fact that all the exercise taken up by the delinquent has resulted on account of complaint made by husband of Smt. Tasneem Shaukat who is joint account holder of Smt. Tasneem Shaukat. Had he not made the complaint the delinquent would not have made any visit to her house. 40. It has been submitted by learned counsel for non-applicant that by paying the money back to the account holder applicant has secured the counterfoil from the account holder. It has been argued by learned counsel for the applicant & has been mentioned by applicant himself in his written argument also that no witness has been produced by non-applicant to prove the charge. As the applicant has already admitted the making of entry without any authority of rule & direction of the bank & has not assigned any valid reason for not deleting the entry which was without authority, I am of the view that the non-applicant has been successful in proving charge no. 1 against the delinquent.

Charge No.2

41. The charge against the applicant is that he withdrew a sum of Rs.5000/- from the account no. 01190010193 of Sh. Rajkumar Gadgil on 11.10.2003 by forging the signature of account holder on withdrawal form & pocketed the money.

42. Applicant in his written reply dated 31.12.2005 against the charge memo has alleged that he has not withdrawn the money & withdrawal has been made by Sh. Gadgil himself. He has further alleged that he contacted Sh. Rajkumar Gadgil who has accepted that withdrawal was made by himself & this fact has been admitted by him in writing & he has given in writing that money was withdrawn by Sh. Gadgil himself. Applicant has attached the written document given by Sh. Gadgil with his explanation.

43. In his final written argument filed in this tribunal by applicant on 25.10.17 & in oral argument it has been alleged that opposite party has admitted in letter dated 19.2.2005 that signature on withdrawal form belongs to Sh. Rajkumar Gadgil but opposite party bank has sent the withdrawal form for the opinion of handwriting expert unnecessarily. He has further submitted that document on which enquiry officer has based his report was not filed during enquiry hence, a disciplinary action cannot take place against the applicant. He has further submitted that during enquiry Sh. Rajkumar Gadgil was produced in evidence & he has not denied that withdrawal form is not bearing his signature yet the enquiry officer has held him guilty. He has further alleged that Sh. Lakhani, the manager of the bank has secured the letter written by Sh. Rajkumar Gadgil & the witnesses Sh. Ramkishan & Sh. Shankarlal. Countering the above argument it has been submitted by learned counsel for the non-applicant that Sh. Shyamlal delinquent has himself secured the letter dated 26.3.2004(P-8) written by Sh. Rajkumar Gadgil which bears the signatures of two witnesses Sh. Shankarlal & Sh. Ramkishan by approaching & influencing Sh. Rajkumar Gadgil. It has been further alleged that when Sh. Rajkumar Gadgil has received his money back from applicant thereafter, he has withdrawn his complaint. It has been further submitted that during enquiry Sh. Rajkumar Gadgil has admitted to have made the complaint & he has also admitted that he has received the money hence, he wants no action against the delinquent Sh. Shyamlal.

44. From perusal of enquiry record, this fact is undisputed that a complaint (P-10) dated 25.2.2004 was made to branch manager by Sh. Rajkumar Gadgil about withdrawal of a sum of Rs.5000/- on 11.10.2003 by Sh. Shyamlal Agrawal, the applicant. According to complaint (P-10) Sh. Rajkumar Gadgil deposited various amount of money on different date prior to 11.10.2003 & on 11.10.2003 also he came to bank to make further deposit of a sum of Rs.1000/- & he successfully deposited Rs.1000/- on 11.10.2003 but on that date i.e. 11.10.2003 Sh. Shyamlal secured the signature of Sh. Rajkumar Gadgil on one form of the bank. Applicant Sh. Rajkumar Gadgil could not know that what was that form on which signature was secured by Sh. Shyamlal. Applicant further says that when on 19.2.2004 he came to deposit a sum of Rs.2000/- he came to know that Sh. Shyamlal, cashier has cheated him by withdrawing a sum of Rs.5000/- on 11.10.2003 from his account. Addressing the complaint to the branch manager he has requested to have

his money given back failing which he will be compelled to take legal action for which management will be responsible. Further, a letter dated 26.3.2004 (P-8) has been written in which name or authority of the addressee has not been mentioned & this letter has been singed by witness Sh. Shankarlal & Sh. Ramkishan & alleged to have written by Sh. Rajkumar Gadgil & signed by him. From the content of this letter it appears that this letter has been written by Sh. Rajkumar Gadgil favouring applicant Sh. Shyamlal which is alleged to have been attached by Sh. Shaymal along with his reply to memo of charge. The content of this letter says that he had made the complaint against Sh. Shyamlal in mistaken impression & he had actually withdrawn the money himself on 11.10.2003. He has further said that now he is satisfied & complaint made by him against Sh. Shyamlal may be consigned.

45. During enquiry in examination-in-chief on 21.7.2006 Sh. Rajkumar Gadgil has admitted that complaint dated 25.2.2004 was made by him. He has also admitted that letter dated 26.3.2004 favouring Sh. Shyamlal alleged to have been signed by witnesses Sh. Shankarlal & Sh. Ramkishan was also written by him. About withdrawing the complaint vide letter dated 26.3.2004 he has admitted that he has got his money hence, he has written the letter dated 26.3.2004 & letter dated 26.3.2004 be treated as correct. It is evident from above statement that Sh. Rajkumar Gadgil has decided to favour Sh. Shyamlal only after receipt of money. In light of the above statement of Sh. Gadgil there is no doubt that letter dated 26.3.2004 has come into existence by influence of Sh. Shyamlal. This is no one's case that money from the account of Sh. Rajkumar Gadgil was not withdrawn & Sh. Rajkumar Gadgil has admitted that letter relating to withdrawal of complaint is written by him because he has received his money back. The letter dated 26.3.2004 is result of active role played by applicant Sh. Shyamlal which is evident from the statement of Sh. Shankarlal who has alleged in cross examination that letter dated 26.3.2004 was brought to him for signature by Sh. Shyamlal. Sh. Ramkishan has not been produced in evidence who has been shown to be another witness on letter dated 26.3.2004. Sh. Ramkishan in his letter dated 17.5.04 addressed to Branch Manager has alleged that father of Sh. Shyamlal approached him & alleged him to become a witness for delivery of money to Sh. Rajkumar Gadgil because Sh. Gadgil is proceeding with the case against Sh. Shyamlal & money was given to Sh. Rajkumar Gadgil before Sh. Ramkishan. P-17 is alleged to have been written in testimony of delivery of money to Sh. Rajkumar Gadgil. Here, it is pertinent to mention that P-16 signed by Sh. Shankar Lal & P-17 signed by Sh. Ramkishan are the documents proving the fact that money was given to Sh. Rajkumar Gadgil. Learned defence representative has raised this point before the enquiry officer that P-16 & P-17 are the papers created by branch manager by influencing these two witnesses because branch manager was interested in having Sh. Shyamlal Agrawal punished due to animosity. In this context, it is important to mention that in criminal proceeding instituted by Sh. Parmeshwar Lal, Sh. L.C.Lakhani, branch manager is co-accused before the criminal court due to his favour for Sh. Shyam Lal hence, this contention is not tenable that P-16 & P-17 are the documents created by branch manager with the help of these two witnesses. Nowhere these two witnesses or Sh. Shyamlal or his father have made any complaint before the superior authority or before the police that branch manager has been instrumental in securing the creation of P-16 & P-17 with the help of two witnesses. In fact, the true revelation appearing from the circumstances of the fact is that these two witnesses are the creation of applicant Sh. Shyamlal to assist him to escape from the complaint of Sh. Rajkumar Gadgil.

46. As far as the question of issue whether withdrawal form used by Sh. Shyamlal to withdraw Rs.5000/- is one which is said to be secured from Sh. Rajkumar Gadgil by having his signature on blank form or the one which has been prepared by Sh. Shyamlal by forging the signature of the Sh. Rajkumar Gadgil is concerned, in this context attempt has been made by defence representative to create a confusing position by saying that as per complaint of Sh. Rajkumar Gadgil Sh. Shyamlal had secured his signature on a form hence, there was no need to have the opinion of handwriting expert. In this context, it is important to mention that in FIR there has been only contention that Sh. Shyamlal had secured the signature of the complainant Sh. Rajkumar Gadgil but there is no specific mention that it was the signature on withdrawal form because in the complaint he has alleged that he was not aware as to what was the precise nature of the form. Report of handwriting expert reveals that the signature on the withdrawal form is not having similarity with admitted signature of Sh. Rajkumar Gadgil but it is a forged signature.

47. Looking into the facts of charge no.2 evidence produced thereon & attending fact & circumstances, I am of the view that withdrawal of the money from the account of Sh. Rajkumar Gadgil is undisputed. Sh. Rajkumar Gadgil has received the money from the applicant side is also undisputed due to which Sh. Rajkumar Gadgil has attempted to withdraw the complaint against the applicant unsuccessfully & receipt of money by him has been the prime reason to help the applicant to escape the charge. On the basis of above discussion, I am of the view that non-applicant has been successful in proving the charge no.2 against the applicant.

Charge no.3

48. Charge no. 3 is to the effect that delinquent Sh. Shyamlal Agrawal withdrew unauthorisedly a sum of Rs.3000/- on 4.9.2003 & Rs.5000/- on 13.9.2003 respectively from the saving account no. 01190007812 of Sh. Mahadev Prasad by forging the signature of account holder on withdrawal forms & pocketed the money. The charge further alleged that payment of both the withdrawals was made without passbook because entries relating to withdrawal do not find place in the passbook which is contravention of laid down instructions of the bank that pass-book must accompany the withdrawal form at the time of withdrawal to ensure entry of the withdrawal in pass-book which also concurrently ensures the identity of account holder .

49. The above levelled charge means that at the time of withdrawal passbook must be presented with withdrawal forms & without presentation of passbook with withdrawal form payments are not to be made to the account holder & making payment to the withdrawal form holder without accompanied with passbook contravenes the provision of instructions laid down by the bank.

50. From perusal of the enquiry record in connection with charge No.3 it appears that the account holder for account No. 01190007812 is Sh. Mahadev Prasad Sharma. A complaint (P-21) signed by Sh. Virmal Sharma on behalf of Sh. Mahadev Prasad Sharma was received by bank on 20.10.2004 wherein it was submitted to Branch Manager, Ratangarh that a sum of Rs.5000/- has been misappropriated from the above account of the account holder & when the statement of account was taken from the bank by account holder he noticed that on 4.9.2003 a sum of Rs.3000/- was withdrawn & credited on 10.9.2003 without knowledge of the account holder. It was further contended that all these three transactions must have been done by some employee of the bank only but his passbook does not contain any entry regarding all the above mentioned three transactions & on 8.12.2003 balance of Rs.5694/- has been shown in the statement of account. On 12.10.2004 when account holder visited the bank for withdrawal of a sum of Rs.5000/- he was informed by the bank about insufficient balance against the demand of Rs.5000/-. Thus, the applicant became aware of the fact that a sum of Rs.5000/- has been withdrawn by bank employee. Complainant has further mentioned that on 8.12.2003 balance of Rs.5694/- has been shown in computerised passbook issued by the bank which was issued by delinquent Sh. Shyamlal Agrawal & computerised passbook bears his signature but on 13.9.2003 a sum of Rs.5000/- has been withdrawn by adopting illegal means. The complainant has prayed that a sum of Rs.5000/- be restored to his account & legal action may kindly be taken against guilty person failing which applicant will be compelled to take recourse in the court of law.

51. In his explanation to the charge Sh. Shyamlal Agrawal has submitted that both the withdrawals dated 4.9.2003 & 13.9.2003 amounting to Rs.3000/- & Rs.5000/- respectively have been made by Sh. Mahadev Prasad Sharma himself & payment of Rs.5000/- have been done from another counter by another assistant & not by him. He has specifically denied about withdrawal of Rs.3000/- by him by forging the signature of Sh. Mahadev Prasad Sharma. He has further alleged that withdrawal form relating to Rs.3000/- bears the signature of Sh. Mahadev Prasad Sharma & he himself has drawn the amount & delinquent has not withdrawn any amount by forging signature, thus, charge levelled against him is baseless.

52. An application dated 23.10.2004(P-35) has been written by Sh. Mahadev Prasad Sharma addressed to Branch Manager, Ratangarh wherein he has made reference to his complain dated 20.10.2004 (P-21) as mentioned above & has alleged that the alleged amount was withdrawn by Sh. Shyamlal Agrawal in illegal manner & the complainant Sh. Mahadev Prasad Sharma has received the amount. He has further alleged that now he is not having complaint about the money & his complaint may be treated as disposed.

53. It has been submitted on behalf of presenting officer that on 4.9.2003 money was withdrawn by Sh. Shyamlal Agrawal & again deposited back after six days after utilising it for the alleged period. Again a sum of Rs.5000/- was withdrawn on 13.9.2003 by him forging the signature of account holder on withdrawal form. On complaint (P-21) made by Sh. Mahadev Prasad Sharma, the delinquent paid the money back to Sh. Mahadev Prasad Sharma & received the letter (P-35) from him. The presenting officer has quoted certain excerpts from the letter (P-35) which has been relied upon along with other material by the enquiry officer for coming to the conclusion that money was withdrawn by Sh. Shyamlal Agrawal & paid back to Sh. Mahadev Prasad Sharma as a result of complaint made by him. The letter (P-35) reads as under :-

सेवा में,

श्रीमान् मैनेजर साहब,

भारतीय स्टैट बैंक

रतनगढ़

विषयः– खाता संख्या 01190007812 में से 5000/– रूपये बैंक कर्मचारी द्वारा असवैधानिक तरीके से चोरी कर लेने के निपटारा सम्बधित

मान्यवर,

उपरोक्त विषय में निवेदन है कि मैनें दिनांक 20.10.04 को लिखित शिकायत की थी। मेरे खाता संख्या 01190007812 में से असवैधानिक तरीके से श्री श्याम लाल द्वारा निकाल लिये थे। उक्त रूपये मुझे प्राप्त हो गये हैं अब मुझे कोई शिकायत नहीं है। व मेरी शिकायत का निवारण माना जावे।

यह आपको सूचना सादर प्रेषित है।

दिनांक 23.10.2004

हस्ताक्षर पठनीय

भवदीय

महादेव प्रसाद पुत्र रामनारायण

निवासी रतनगढ़

54. Countering the above submission on behalf of non-applicant it has been submitted by learned defence representative of the applicant before the Enquiry Officer that there is no specific mention in P-21 that money was withdrawn by Sh. Shyamlal Agrawal & the only contention against the delinquent is that Sh. Shyamlal Agrawal has made manual entry/statement with his initial in the complainant passbook which was done as per instruction of Branch Manager because electronic printer was out of order on that date. It has been further submitted that Rs.5000/- was never withdrawn with the user ID of Sh. Shyamlal Agrawal & it has not been proved by presenting officer that Sh. Shyamlal Agrawal has forged the signature on withdrawal form. It has been further submitted that there is no evidence that Rs.5000/- has been paid to the complainant by Sh. Shyamlal Agrawal & complainant was not produced before the enquiry officer in evidence.

55. It has been argued before this tribunal by learned counsel for the applicant & has been mentioned in the written argument by applicant that withdrawal form was not presented before the Enquiry Officer yet he has been held guilty by Enquiry Officer hence, disciplinary action cannot be taken against him. Further, it has been submitted that P-21 has not been signed by Sh. Mahadev Prasad Sharma & complaint of Sh. Mahadev Prasad Sharma was prepared by a forged person which means that there is no complaint of Sh. Mahadev Prasad Sharma & Sh. Mahadev Prasad Sharma has not been called in evidence to prove the documents. Countering the above argument it has been argued by learned representative of non-applicant that applicant Sh. Shyamlal Agrawal has himself received the document P-35 in which there is endorsement about withdrawal of money by Sh. Shyamlal Agrawal & receipt of misappropriated money by Sh. Mahadev Prasad Sharma hence, there remains nothing to be proved against the applicant by calling Sh. Mahadev Prasad Sharma in evidence because P-35 has been secured by applicant Sh. Shyamlal Agrawal himself.

56. It shall appear from the letter P-35 written by Sh. Mahadev Prasad Sharma that Sh. Mahadev Prasad Sharma has admitted that he has received the money beside mentioning the allegation that money was withdrawn by Sh. Shyamlal Agrawal from his account. This letter has been secured & taken by Sh. Shyamlal Agrawal himself which clearly appears from the submission made by presenting officer before the Enquiry Officer. This act of applicant clearly acknowledges the creation of P-35 by Sh. Mahadev Prasad Sharma at the initiation of Sh. Shyamlal Agrawal. In this circumstance, there remains nothing to be proved by securing attendance of Sh. Mahadev Prasad Sharma before the Enquiry Officer for proving the fact or for facilitating the cross examination by delinquent because delinquent has himself taken the document P-35 from Sh. Mahadev Prasad Sharma.

57. As far as the question of P-21 is concerned according to argument of applicant it is a document which has not been signed by Sh. Mahadev Prasad Sharma & has been prepared by a forged person in place of Sh. Mahadev Prasad Sharma but this argument is not tenable in view of the fact that Sh. Mahadev Prasad Sharma has admitted in P-35 that he had made a complaint on 20.10.2004 which is none other than P-21 in this connection. Further, it is pertinent to mention that disputed signature of Sh. Mahadev Prasad Sharma has been examined by admitted signature of Sh. Mahadev Prasad Sharma & handwriting expert has alleged in his report that disputed signatures on withdrawal forms are forged signature, thus, this fact stands proved that complaint of withdrawal made by the complainant is correct & alleged amount has not been withdrawn by account holder himself. As far as its withdrawal by delinquent is concerned securing & receiving document P-35 from Sh. Mahadev Prasad Sharma by applicant is sufficient proof of involvement of Sh. Shyamlal Agrawal because in the alleged circumstance when P-35 has been secured & received by Sh. Shyamlal Agrawal himself there is no need of attendance of Sh. Mahadev Prasad Sharma as witness before the enquiry officer. On the basis of above discussion, I am of the view that non-applicant has proved charge No.3 levelled against Sh. Shyamlal Agrawal.

Charge No.4

58. Charge No. 4 is to the effect that on 1.11.2003 applicant Sh. Shyamlal Agrawal received a sum of Rs.7000/- for crediting it to the saving account No. 01190012803 of Sh. Manoj Kumar Sharma on his counter & issued counterfoil in testimony of the said deposit but he did not account for the amount in the banker's book & pocketed the money for his own use.

59. In explanation against charge No. 4 it has been submitted by applicant Sh. Shyamlal Agrawal that on 1.11.03 amount of Rs.7000/- was not deposited by Miss Saroj Sharma, sister of account holder Sh. Manoj Kumar Sharma. He has further submitted that on the instigation of someone Miss Saroj Sharma has presented the complaint against me relating to charge number 4.

Charge No.5

60. Charge No.5 also relates to account number 01190012803 of Sh. Manoj Kumar Sharma wherein it has been alleged that delinquent Sh. Shyamlal Agrawal credited a sum of Rs.7000/- on 31.12.2003 by debiting this amount of Rs.7000/- from the account no. 01190010678 which relates to some other Manoj Kumar Sharma & this exercise of debiting from one account & crediting it to another account was done by delinquent without authority of the account holders.

61. From perusal of enquiry record it appears that Miss Saroj Sharma made a written complaint to Branch Manager, Ratangarh on 17.5.04 that she had deposited a sum of Rs.7000/- on 1.11.03 in the account of her brother Sh. Manoj Kumar Sharma. She had made endorsement of detail of currencies on deposit slip & counterfoil at the time of deposit on 1.11.03. She has further alleged that the deposit slip dated 4.11.03 shown by Branch Manager to Miss Saroj Sharma has not been filled by her & is not in her handwriting whereas deposit made on 1.11.03 was in her handwriting. She has further said that it appears that deposit made by her on 1.11.03 was not credited to the account of her brother & after utilising the money for a period of three days the money has been deposited by Sh. Shyamlal Agrawal in the account of another Manoj Kumar wherein deposit slip does not bear the signature of depositor. She has further alleged that Rs.7000/- has been deposited back in the account of her brother Sh. Manoj Kumar Sharma on 31.12.03 after laps of about two months consequent upon complaint made to branch manager. She has prayed to take action against the guilty person.

62. In his explanation against charge no.5 Sh. Shyamlal Agrawal has alleged that deposit of Rs.7000/- on 4.11.2003 was made by Sh. Manoj Kumar Sharma brother of Miss Saroj Sharma but instead of 4.11.2003 he had mentioned 1.11.2003 on the counterfoil (receipt). Delinquent Sh. Shyamlal Agrawal has further alleged that he accepted the amount & when he tried to make posting of the amount in computer then he found that account number was not written in deposit slip. Thereafter, he sought the appearance of all the accounts on the screen of computer in the name of Manoj Kumar & according to his guess he credited the amount by mistake to account number 10678 because printer was defective at that time. He has further alleged that on 31.12.2003 Miss Saroj Sharma came to the bank to have the entry made in passbook then she came to know that the amount had been credited in the account no.10678 in the name of Sh. Manoj Kumar Sharma. Thereafter, he gathered the vouchers of deposit & after securing the correct information about account number he on his own level debited the account no.10678 & credited it to the account no.12803 of Sh. Manoj Kumar Sharma i.e. brother of Miss Saroj Sharma. He has further alleged that single window operating system had authority of transferring only a sum of Rs.1500/- hence, he prepared the vouchers at his level. With above explanation he had claimed that the charge against the delinquent is baseless.

63. From the perusal of enquiry record it appears that it has been argued by presenting officer of the bank before the enquiry officer on behalf of bank in relation to charge No. 4 that on 1.11.2003 cash was received for deposit by Sh. Shyamlal Agrawal who has given counterfoil to the depositor but he did not credit the amount on 1.11.2003 & destroyed the deposit voucher & utilised the money for his own purpose & on 4.11.2003 deposited the amount in account of another Sh. Manoj Kumar Sharma to conceal the fraud committed by him under the garb of mistake. It has been further submitted that deposit slip filled on 4.11.03 is in different handwriting whereas counterfoil delivered on 1.11.2003 is in different handwriting bearing correct & clear account number, hence, charge against delinquent stands proved. Against above submission it has been argued by defence representative that charge No.4 has not been proved against delinquent because complainant has not appeared in evidence. It has been further submitted that no amount was deposited on 1.11.2003 as alleged in explanation by delinquent & on 4.11.2003 Miss Saroj Sharma came to the counter of Sh. Shyamlal Agrawal & as a courtesy towards a lady delinquent filled up the deposit voucher for the credit of Sh. Manoj Kumar Sharma to account no. 01190010678 & after searching in the system promptly credited the amount in the above said account. He has further alleged that thereafter she demanded the counterfoil which was not available with the delinquent & thereafter she presented a dully filled up counterfoil which was issued to her but the delinquent omitted to check the account number & date on the counterfoil hence, charge is baseless & unfounded that money was used by delinquent for three days & deposit was intentionally made in wrong account where it remained lying for about two month. Against charge No.5 it has been argued that debiting account of one customer & crediting that amount to another customer's account for rectification of wrong does not require confirmation from the account holder & passing of transfer entry was within the power & there was no malafied intention.

64. It has been argued before this tribunal by learned counsel for applicant that charge No.4 & 5 have not been proved by opposite party & complainant has not been produced in evidence because there was no deposit from complainant side on 1.11.2003 & when applicant Sh. Shyamlal Agrawal came to know about crediting of the amount in wrong account he has debited the amount & credited to the correct account of Sh. Manoj Kumar Sharma. Countering the above argument it has been submitted by learned counsel for non- applicant that applicant knowingly & deliberately has committed grave misconduct by temporarily misappropriating the amount deposited by account holder on 1.11.2003 & to conceal the wrong committed by him he has wrongly taken all the step of debiting & crediting without authority of the senior officer of the bank or the account holder & charge 4 & 5 have been proved by non-applicant against the delinquent.

65. From perusal of enquiry record it appears that charge No.4 & 5 have been found proved by the enquiry officer against the delinquent. The proof of charge No.4 has been based on the counterfoil P-18 filed by Miss Saroj Sharma on which stamp of the bank is dated 1.11.03 & this amount was deposited on 4.11.03 in the account No. 10678 of another Manoj Sharma. The stamp of 1.11.2003 on the deposit slip has been the basis of conclusion that amount was tendered for deposit on 1.11.2003. Charge No.5 has been treated as proved on the ground that P-19 deposit slip was prepared by delinquent employee himself on 4.11.2003 in the name of another Sh. Manoj Kumar Sharma & was deposited in the account No.10678 to cover the fraud. Further, delinquent prepared transfer voucher (P-19 A) on 31.12.2003 & P-19 B debit voucher which was without authorisation by a Senior Officer or by account holder.

66. From perusal of record it is evident that this fact is admitted that debiting & crediting of the amount has been admitted to have been done by delinquent himself in his own writing & signature. P-18 is the counterfoil on record in which Rs.7000/- has been shown to be deposited on 1.11.2003. The amount of Rs.7000/- is consisting of 7 notes of Rs.500/- & 35 notes of Rs.100/- denomination. The stamp affixed on P-18 bears the date 1.11.2003 & the date written by depositor on counterfoil is also 1.11.2003 hence, delinquent & his learned representative can not be permitted to say that no deposit was made in the account no.12803 of Sh. Manoj Kumar Sharma i.e. brother of Miss Saroj Sharma. Further, it is pertinent to note that in his explanation to charge No.5 delinquent has alleged that on 4.11.2003 Sh. Manoj Kumar Sharma had got the money deposited who did not mention the date on deposit slip whereas learned representative of the applicant in his submission before the Enquiry Officer has submitted that Miss Saroj Sharma had visited on 4.11.2003 to deposit the money & in courtsey towards lady vouchers were filled by Sh. Shyamlal Agrawal hence, both the contentions are contradictory. Further, it is pertinent to mention that if contention of the learned representative of the delinquent is correct that counterfoil was prepared by Miss Saroj Sharma on 4.11.2003 then how the counterfoil submitted by complainant bears the stamp dated 1.11.2003. From the above discussion, I am of the view that contention of the learned representative of the applicant is not sustainable that no deposit was made on 1.11.2003. From the circumstance, it is clear that applicant has been in the full knowledge of the fact that deposit was made on 1.11.2003 & all the explanations offered by him are baseless, fabricated & untenable. The enquiry officer has rightly held him guilty for charge no.4 & 5 levelled against him.

Charge No.6

67. Charge No.6 is to the effect that applicant issued cheque No. 536949 dated 1.2.2004 for a sum of Rs.10,000/- without keeping sufficient amount as balance in his current account No. 01090094052.

68. In his explanation dated 31.12.2005 by applicant against charge No.6 he has narrated that he had issued this cheque to one Sh. Jaswant Singh who was customer of the Ratngarh branch. He has further alleged that Sh. Jaswant Singh was an ex-serviceman who was frequently meeting the delinquent. One day during his visit to the bank he told the delinquent that if delinquent needs any goods from military canteen Sh. Jaswant Singh will bring it & give it to delinquent because he is a retired military personnel. Thereafter, in January, 2004 delinquent asked him for a 6 k.g. automatic washing machine. Sh. Jaswant Singh said that the alleged washing machine is available in his military canteen situated at Bikaner & he will have to make visit to Bikaner which requires spending money in visiting Bikaner beside spending of time. He further said that beside above expenditure certain amount will be required to be spent as commission. When delinquent agreed to fulfil above conditions to get the washing machine, Sh. Jaswant Singh asked for advance money. In return applicant issued to Sh. Jaswant Singh the above mentioned cheque dated 1.2.2004. The applicant has further alleged that after laps of sometime from the date of issuing the cheque applicant felt himself sick & he has further alleged that he was to receive money from someplace but the money was not received till then hence, he asked Sh. Jaswant Singh not to proceed with the purchase of washing machine & the delinquent will ask for the washing machine after 2-3 months & he directed him to return the cheque back to delinquent. Applicant has further said that after receiving above information from delinquent Sh. Jaswant Singh got annoyed & said that he has already placed the order for washing machine from the canteen & delinquent will have to take the washing machine. Delinquent replied that he is not in position to arrange the money for washing machine & asked Sh. Jaswant Singh to deliver the cheque back to the delinquent. On demanding the cheque back Sh. Jaswant Singh said that he will return the cheque back but delinquent will have to compensate for the labour that has been done by Sh. Jaswant Singh till then. The delinquent has narrated that annoyed by the denial of the delinquent Sh. Jaswant Singh placed the cheque in the bank for payment & made a complaint in this connection to the bank that he has to get Rs.10,000/- from Sh. Shyamlal Agrawal. Applicant has further alleged that he did not think that Sh. Jaswant Singh will act in that manner with the delinquent & when cheque was tendered to the bank for payment applicant was at his native village . From his village he contacted Sh. Jaswant Singh on telephone & ask him to return the cheque back to the delinquent. Applicant has annexed the copy of the cheque with his explanation. Further, applicant has alleged that he was unaware that the cheque book from which he had issued the cheque to Sh. Jaswant Singh was issued to the branch office of the bank which was kept in the almirah (rack) of the table of the delinquent & issued the cheque from that cheque book thinking that cheque book was personal belonging of the delinquent. Applicant has said that when he asked Sh. Jaswant Singh not to take the washing machine there was no need to keep sufficient balance in the account hence, charge No.6 levelled against him is baseless.

69. It has been argued by learned representative of the applicant before the tribunal that charge has been framed against the applicant for having insufficient money in his account & issuing a cheque of Rs.10,000/- to one Sh. Jaswant Singh on 1.2.2004 but such charge cannot be levelled against the delinquent because this event is related to section 138 Negotiable Instrument Act & proceeding under section 138 Negotiable Instrument Act cannot be initiated in absence of a written complaint by Sh. Jaswant Singh to the concerned Judicial Magistrate having jurisdiction to entertain the complaint. Countering the above argument it has been argued by learned representative for the opposite party that alleged act of the delinquent is a misconduct under the "RULES OF CONDUCT (AWARD STAFF" for employees of the bank & disciplinary action is permissible against the delinquent applicant for the alleged misconduct. Against this, it has been submitted by learned representative of the applicant that there is no such provision wherein it has been provided that issuing of cheque without sufficient balance in the account is an act of misconduct.

70. "RULES OF CONDUCT (AWARD STAFF" has been submitted by learned representative of the opposite party which is available on page 10 of the book named 'A BOOK ON DISCIPLINE & DISCIPLINARY PROCEEDINGS' (12TH Edition). The relevant part of provided provision reads as under :-

"An employee of the Bank may not :-

(i) Borrow money or permit any member of his family to borrow money or other wise place himself or a member of his family under a pecuniary obligation to a broker or a money lender or a subordinate employee of the bank or any person, association of persons, firm, company or institution, whether incorporated or not having dealings with the bank;

(ii) ……".

71. From the perusal of enquiry record it appears that Sh. Jaswant Singh made a complaint against Sh. Shyamlal Agrawal that on 3.12.2003 by means of withdrawal form he had drawn a sum of Rs.29,000/- from his account but withdrawal form was filled by Sh. Shyamlal Agrawal & only signature on withdrawal form was made by applicant Sh. Jaswant Singh. Sh. Jaswant Singh had desired to draw Rs.29000/- only which was given to him by delinquent but delinquent had drawn Rs.39000/- by endorsing this amount in withdrawal form in place of Rs.29000/- & pocketed Rs.10000/- to himself. On 1.1.2004 he came to know about wrong withdrawal of Rs.29000/- & made a written complaint (P-31) about the matter to Assistant Manager & Manager of the branch. Sh. Jaswant Singh was asked to identify the employee of the bank present on the premises who was responsible for the wrong committed with him. After identification by Sh. Jaswant Singh it was found that none of the staff present in the bank was the person who was responsible for drawing Rs.39000/-. At that point of time Sh. Shyamlal Agrawal had gone for lunch. When Sh. Shyamlal Agrawal returned from lunch applicant Sh. Jaswant Singh identified him & asked Sh. Jaswant Singh to come tomorrow when Sh. Shyamlal Agrawal will explain as to how Rs.39000/- was withdrawn in place of Rs.29000/-. After this Sh. Shyamlal Agrawal issued the alleged cheque as mentioned above for a sum of Rs.10000/- dated 1.2.2004 with instruction that Sh. Jaswant Singh should tender the cheque for encashment on or after 1.2.2004 only. He further assured that he will pay the money within 10 days. Sh. Jaswant Singh take the cheque back. Sh. Shyamlal Agrawal fail to make payment within 10 days & approached the Manager of the bank with written complaint accompanied by alleged cheque & requested the Branch Manager to take the cheque in custody & ensure him the payment of Rs.10000/- by 1.2.2004.

72. It appears that subsequent to the complaint of Sh. Jaswant Singh, father of Sh. Shyamlal Agrawal, Sh. Girdhari Lal S/o Bhagumal Agrawal contacted Sh. Jaswant Singh along with witness Sh. Vinod Kumar Khemka on 5.2.2004 & paid the amount of Rs.10000/- & received the cheque back issued by Sh. Shyamlal Agrawal to Sh. Jaswant Singh. A letter (P-33) to this effect has been written by Sh. Jaswant Singh which has been signed by witness Sh. Vinod Kumar Khemka. In this P-33 Sh. Jaswant Singh has requested that as father of Sh. Shyamlal Agrawal he has paid the money back hence, Sh. Jaswant Singh has no complaint now against Sh. Shyamlal Agrawal & complainant's complaint may be consigned. During cross-examination Sh. Vinod Kumar Khemka has admitted his signature on P-33. Sh. Jaswant Singh has also been cross-examined by defence representative. Sh. Jaswant Singh has admitted that he had complained against Sh. Shyamlal Agrawal to the bank & the cheque was given by Sh. Shyamlal Agrawal to him & on 5.2.2004 he has received money from Sh. Girdhari Lal, father of Sh. Shyamlal Agrawal & after receipt of money he has no complaint now against Sh. Shyamlal Agrawal. An unsuccessful attempt has been made by defence representative to suggest the witness Sh. Jaswant Singh & Enquiry Officer that the person who paid Rs.10000/- was not the father of Sh. Shyamlal Agrawal & he was some unknown person interested in falsely implicating Sh. Shyamlal Agrawal but this suggestion is completely baseless in view of the fact that Sh. Shyamlal Agrawal has himself admitted in his explanation to the charge that cheque in original was returned by Sh. Jaswant Singh whose photocopy has been attached by Sh. Shyamlal Agrawal with his explanation consisting of different story. From the comparison of the story of washing machine placed by Sh. Shyamlal Agrawal & the complaint of Sh. Jaswant Singh, it is also evident that the plea of washing machine raised by Sh. Shyamlal Agrawal to cover his entire illegal act is unfounded & based on fabricated facts. On the basis of statement of Sh. Vinod Kumar Khemka also there remains no doubt that father of Sh. Shyamlal Agrawal was the person who delivered Rs.10000/- & P-33 was executed in correct prospective. On the basis of above discussion, I am of the view that opposite party has been successful in proving charge No.6 against the delinquent Sh. Shyamlal & plea of section 138 of Negotiable Instrument Act in defence of delinquent is unsustainable.

Charge no.7

73. This issue is to the effect that on 25.11.2003 delinquent Sh. Shyamlal Agrawal received a sum of Rs.12000/- from Sh. Parmeshwarlal for crediting it to the saving account no. 01190010807 which was received by him & a counterfoil was issued to the depositor but the amount received was not accounted to the account of bank's book.

74. Sh. Shyamlal Agrawal in his explanation to charge no.7 has alleged that Sh. Parmeshwarlal Singhania has made deposit of some money on 25.11.2003 & the counterfoil relating to the deposit was in his possession but it was not bearing the signature of Sh. Shyamlal Agrawal. He has further alleged that he had made a complaint in the bank as well as in the police station & police had submitted the investigation report in the court but Sh. Shyamlal Agrawal has not received any summon from the court till the date of his explanation on 31.12.2005. He has further submitted in his explanation that Sh. Parmeshwarlal has himself given in writing to Sh. Shyamlal Agrawal that Sh. Parmeshwarlal had not given any money to Sh. Shyamlal Agrawal for making deposit & the counterfoil was issued to Sh. Parmeshwarlal by mistake & Sh. Parmeshwarlal had filed a complaint against Sh. Shyamlal Agrawal by mistake on instigation of people. He has further contended that he is endorsing the photocopy of written note given by Sh. Parmeshwarlal to him & charge levelled against him is accordingly baseless.

75. In final argument submitted on 25.10.2017 in writing by applicant himself & it has also been argued by learned counsel for the applicant that the enquiry officer has based his finding on the basis of P-7 & P-6 documents but these documents have not come during enquiry proceeding hence, no disciplinary action can be taken on the basis of these documents. He has further submitted that neither counterfoil relating to Rs.12000/- was produced nor Sh. Parmeshwarlal was produced for examination & cross examination to depose that counterfoil was given to him by Sh. Shyamlal Agrawal. Further, he has relied on the judgement of criminal court which has been filed by him. Countering the above argument it has been submitted by learned counsel for non-applicant that there has been compromise between Sh. Shyamlal Agrawal & Sh. Parmeshwarlal & payment of Rs.12000/- has been made to Sh. Parmeshwarlal & only after that Sh. Parmeshwarlal has submitted an affidavit in favour of Sh. Shyamlal Agrawal & this fact is clear from the judgement of Hon'ble Criminal Court also.

76. As far as the proceeding during enquiry is concerned it has been submitted by presenting officer before the enquiry officer that Sh. Shyamlal Agrawal paid a sum of Rs.12000/- out of court to secure a compromise in his favour from Sh. Parmeshwarlal & this fact is clear from the document P-6 wherein he has admitted to have received the money & in consequence he has desired that the case before the criminal court may be dismissed.

77. Sh. Shyamlal Agrawal has himself filed the copy of judgement dated 16.2.2012 of the court of Additional Chief Judicial Magistrate, Ratangarh Distt: Churu. The criminal case no.128/2005, State of Rajasthan v/s Sh. Shyamlal Agrawal u/s 409, 120 B I.P.C. was based on an application u/s 156(3) Cr.P.C. wherein order on 19.1.2004 was passed for investigation of the case by Ratangarh police station. Based on order dated 19.1.2004 investigation was made by Ratangarh police station against accused Sh. Shyamlal Agrawal & the then Branch Manager, Sh. L.C.Lakhani & final report was submitted by the police before the court. However, vide order dated 26.5.2005 both the accused were summoned for trial. Sh. L.C.Lakhani preferred criminal revision against the order of cognizance dated 26.5.2005 by the court of learned magistrate which was allowed by Hon'ble Court of District & Session Judge vide order dated 19.6.2009. The criminal case no. 128/2005 continued against Sh. Shyamlal Agrawal & he was charged on 7.3.2011 for the offence u/s 409 I.P.C.

78. According to complaint made before the court of Magistrate u/s 156(3) Cr.P.C. the brief fact of the case against Sh. Shyamlal Agrawal is that on 25.11.2003 at about 11 a.m. complainant visited the Ratangarh branch of the bank to make deposit of a sum of Rs.12000/- in his saving account. He filled the deposit slip & handed over the money along with pass book to Sh. Shyamlal Agrawal for making the deposit before the witnesses Sh. Santosh Kumar & sh. Satyanarayan. Sh. Shyamlal Agrawal took the amount of Rs.12000/-, counted it & after making initial & stamping with seal of the bank on the deposit slip handed over the same to the complainant Sh. Parmeshwarlal. Returning the passbook to Sh. Parmeshwarlal he alleged the complainant that entry in passbook will be made latter by computer. Branch Manager, Sh. L.C.Lakhani told the complainant that complainant need not to worry & he must become assure that money has been deposited in the account. On 9.1.2004 complainant visited the bank & tendered the withdrawal form with passbook for withdrawing a sum of Rs.5000/- but no payment was made & it was alleged by bank that there is insufficient amount in his account. Thereafter, he contacted branch manager & complained against Sh. Shyamlal Agrawal. The branch manager told the complainant that payment will be made tomorrow i.e. next date & when no payment was made on 10.1.2004 he made written complaint to the Superintendent of Police & Collector of district Churu but no case was registered. He made repeated visit to bank & Sh. L.C.Lakhani told him that enquiry is going on in the matter & payment will be made latter. He has further alleged that Sh. Shyamlal Agrawal & Manager Sh. L.C.Lakhani have committed the offence of criminal conspiracy, criminal breach of trust with the complainant & misappropriated a sum of Rs.12000/- dishonestly. Similar incidents have occurred with other customers of the bank hence, accused persons be summoned & tried for offence u/s 409 & 120 B I.P.C.

79. Complainant Sh. Parmeshwarlal turned hostile & rest of the witnesses were discharged on the application of complainant. On the basis of complainant not supporting the case of prosecution accused Sh. Shyamlal Agrawal was acquitted of the charge u/s 409 I.P.C. with benefit of doubt.

80. From the perusal of the judgement it is evident that despite the fact that complainant has turned hostile he has admitted in cross examination that he was given counterfoil about deposit of the money but alleged counterfoil was not given by Sh. Shyamlal Agrawal but it was given by some other official of the bank. This statement goes to show that he had made the deposit in the bank & he was given a counterfoil in testimony of such deposit. Nothing has been asked further that who was the official who had given him counterfoil & why he initiated criminal proceeding against Sh. Shyamlal Agrawal. Nothing has been alleged by the delinquent also as to why he did not initiate a case of malicious prosecution against Sh. Parmeshwarlal.

81. Beside turning hostile before the criminal court Sh. Parmeshwarlal complainant has written a letter (P-7) to the Superintendent of Police, Churu on 12.4.2005 with copy to Station Officer, P.S. Ratangarh & Dy.S.P., Ratangarh wherein he has said that he had visited the bank on 25.11.2003 to make deposit of Rs.12000/- & for this purpose he filled the deposit slip & give to the cashier & the counterfoil was signed by cashier & given to him but he forgot to hand over the money to cashier due to his engagement in talking to one of his known person at that moment & he returned home without handing over money to cashier. He has further alleged that on instigation of people mistakenly filed criminal case before the court against Sh. Shyamlal Agrawal & Sh. L.C.Lakhani. He has further express his desire not to have any further action in the case & his case may be dismissed. It is evident that his contention is different about cash before the court & in P-7. It appears that basing on P-7 final report has been submitted by police after investigation. Another document before the enquiry officer is affidavit (P-6) which is affidavit filed by applicant before the criminal court. This affidavit dated 12.4.2005 has been submitted in the court by Sh. Parmeshwarlal as a favour to delinquent so that acquittal of the applicant may be secured. In this affidavit Sh. Parmeshwarlal deponent has alleged in first paragraph of the affidavit that on 25.11.2003 he deposited a sum of Rs.12000/- in Ratangarh branch of S.B.I. in his account no. 01190010007. He has further alleged in following paragraphs that on 9.1.2004 he visited the bank to withdraw the money from his above mentioned account but he did not get the money & got a case(ISTAGASA) instituted against manager Sh. L.C.Lakhani & cashier Sh. Shyamlal Agrawal of the bank about misappropriation of money & this act of getting the case instituted was done by him hurriedly on instigation of the people. He has further alleged that he has got the money that was deposited by him & he wants the case instituted by him dismissed against the accused because he does not want any further action against them. The learned enquiry officer has acted on the documents P-6 & P-7 as mentioned above. It is pertinent to mention that P-7 written to Superintendent of Police & P-6 affidavit have been prepared on the same date i.e. on 12.4.2005. Both the documents have been prepared at the instance of delinquent who has been aware about both the documents in view of the fact that P-7 has been filed in his favour in the criminal court where he was facing the trial. One can very safely conclude that P-6 has been prepared on the active participation of delinquent by making payment of Rs.12000/- the money which has been the cause of the complaint by Sh. Parmeshwarlal. Letter P-7 was written with a view to promote the filing of final report by police where investigation was going on.

82. A plea has been taken on behalf of delinquent before the enquiry officer as well as before this tribunal that Sh. Parmeshwarlal was not produced in evidence for cross examination hence, disciplinary proceeding cannot take place in above circumstance. It has been submitted by learned counsel for the opposite party that in above circumstance Sh. Parmeshwarlal was not required to be produced by bank for supporting his complaint because he had become hostile to the interest of the prosecution & to the bank & he was a good witness for the defence to favour him & he could have been rightly produced by delinquent by which the witness was won over. Documents P-6 & P-7 are the admitted document of the defence & their copies were supplied to the learned representative of the defence. Evidence was started during enquiry proceeding on 21.7.2006 & Sh. Parmeshwarlal has written both the documents P-6 & P-7 on 12.4.2005 favouring the delinquent. Sh. Shyamlal Agrawal delinquent himself or his defence representative before the enquiry officer or learned representative of applicant & applicant Sh. Shyamlal Agrawal himself before the tribunal have alleged nothing as to in what manner any prejudice has occurred to the delinquent during enquiry by his non-production as witness before the enquiry officer. They have also not been able to show as to why they have not chosen to produce him as defence witness before the enquiry officer when bank had failed to produce him as witness of the bank. Sh. Parmeshwarlal has already given a written note in favour of Sh. Shyamlal which is in return of money to Sh. Parmeshwarlal. In above circumstance it cannot be expected that management of the bank could produce him as witness.

83. On the basis of above discussion & for the reasons stated therein I am of the view that opposite party has proved the charge no.7 levelled against the applicant Sh. Shyamlal Agrawal.

Charge No.8

84. Charge no.8 is to the effect that delinquent managed to obtain a computerised passbook no. 000745 & issued it to Shri Mahadev Prasad, account holder of saving bank account no.01190007812 & made a entry manually in that saving account for a sum of Rs.400/- on 8.12.2003. This entry was relating to the difference amount of maturity value of two STDRs No. 441115 aggregating Rs.38888/- and issue of new STDR for Rs.38,488/- in the name of account holder on

4.9.2003. The entries in the said Pass Book were confirmed by Sh. Shyamlal Agrawal with his signatures at the place meant for Chief Manager.

85. Applicant Sh. Shyamlal Agrawal has submitted in his explanation against the above noted charge no.8 that Shri Mahadev Prasad is a retired policeman & he had got credited the amount relating to both the TDRs in his saving account from the another counter of the bank. When Shri Mahadev Prasad was leaving the bank Sh. Shyamlal Agrawal insisted him to get fresh TDR prepared for the alleged amount of above TDRs. According to contention of Sh. Shyamlal Agrawal Shri Mahadev Prasad was convinced with Sh. Shyamlal Agrawal & asked him to give him Rs.400/- in cash & invest rest of amount of both the TDRs by making a fresh single TDR. Sh. Shyamlal Agrawal has further said in his explanation that he acted according to the direction of Shri Mahadev Prasad & gave him Rs.400/- in cash & invested rest of the amount in TDR but looking into the old age of Shri Mahadev Prasad he prepared all the related vouchers & posted them in his own handwriting. Further explaining about the cause of the complaint by Shri Mahadev Prasad he has alleged that on the direction of branch manager he visited the house of Shri Mahadev Prasad & reminded his son about making payments relating to housing loan failing which legal action will be taken against him for which the debtor will be responsible. The loan account was in the name of Shri Mahadev Prasad's son. According to further part of explanation Shri Mahadev Prasad who was sitting beside his son at the time of conversation got annoyed & said that his son should have been called at branch of the bank to narrate him such warning because such visit to his house by a bank employee in relation to loan lowers the dignity of Shri Mahadev Prasad. He has further alleged that Shri Mahadev Prasad further told him that he was entitled to interest on TDR from the back date which was prepared by Sh. Shyamlal Agrawal. In rest part of the explanation Sh. Shyamlal Agrawal has tried to justify his act done by him in relation to preparation of TDR & misappropriation of Rs.400/-.

86. From perusal of enquiry record it appears that the enquiry officer has held the delinquent guilty of charge no.8. The learned disciplinary authority has not made any mention of charge no.8 in his order while proposing the punishment for dismissal of the applicant from service.

87. In his written argument before the tribunal nothing has been mentioned by applicant in relation to charge no.8. In oral argument it has been argued by learned representative of the applicant that Shri Mahadev Prasad has not been produced in evidence by opposite party hence, the enquiry officer has committed error in holding the charge no.8 proved against the applicant. Countering the above argument it has been argued by learned counsel for opposite party that admittedly entire documents relating to charge no.8 has been prepared by the delinquent himself & there remains nothing to be proved in view of his own admission by the applicant. It has been further argued that in spite of the fact that the act of the applicant Sh. Shyamlal Agrawal is self speaking yet respondent effort to bring Sh. Mahadev Prasad in evidence before enquiry officer failed due to sickness & old age of Shri Mahadev Prasad & he could not appear for evidence.

88. From perusal of enquiry record it appears that a complaint dated 8.12.2003 (P-48) was made by Shri Mahadev Prasad against Sh. Shyamlal Agrawal wherein it has been mentioned that two fixed deposits were continuing in the Ratangarh branch of the state bank being part of complainant's account no. 2812 & amount of money relating to both the FDs were to be reinvested as single FD. The total amount of both the FDs paid to him was Rs.400/- less than the required amount which must have been paid as total sum of both the FDs. Further it has been alleged that the amount of Rs.400/- has been paid to the complainant in cash by Sh. Shyamlal Agrawal on 8.12.2003 & has also been credited in the passbook of the complainant which was less paid on the date of investment of consolidated amount of both the FDs. Shri Mahadev Prasad has further said that Sh. Shyamlal Agrawal was strongly scolded by the officer of the bank because of which payment of Rs.400/- was made to him. Further he has stressfully said that he was paid his money because of scolding from the officer of the bank but delinquent may further defraud this institution again hence, it is requested that have the guilty person be punished so that he does not repeat such mistake in future.

89. From perusal of the record it appears that total consolidated amount of both the FDs was Rs.38888/- but complainant was paid only a sum of Rs.38488/- by Sh. Shyamlal Agrawal & remaining amount of Rs.400/- was misappropriated by the applicant. After complain dated 8.12.2003 Sh. Shyamlal Agrawal has paid the amount in cash & has credited the same in computerised passbook in his own handwriting. Thus, the explanation dated 31.12.2005 against the charge memo appears to be false, fabricated & baseless in background of what has happened on 8.12.2003 after complaint of Shri Mahadev Prasad. All the above act of the applicant has taken place in his own handwriting which he has admitted in his explanation & has tried to give a fake & fabricated explanation which does not stand correct to the scrutiny. Photocopy of computerised passbook no. 000745 is on record which bears the full signature of delinquent in which he has made entry on 8.12.2003 for a sum of Rs.400/- which bears his initial. P-47 is the deposit slip for Rs.400/- which has been admittedly prepare by delinquent Sh. Shyamlal Agrawal as alleged by him in his explanation dated 31.12.2005. In above admitted position there remains nothing to be proved with the aid of Shri Mahadev Prasad as witness because the complaint made by Shri Mahadev Prasad has also been admitted by applicant.

90. As far as the question of producing Shri Mahadev Prasad in evidence is concerned it appears from the enquiry proceeding dated 21.7.2006 that due to illness & old age of 85 Shri Mahadev Prasad could not appear as witness on 21.7.2006. Shri Mahadev Prasad was to appear as witness on 21.7.2006 & during enquiry massage was received from Shri Mahadev Prasad's home that he has become ill suddenly who is aged about 85. Thus, due to illness he could not

appear in person. Sh. Shyamlal Agrawal also has himself admitted about disability of Shri Mahadev Prasad due to old age in his explanation dated 31.12.2005 against charge no.8 that looking into customer's service & old age of Shri Mahadev Prasad he himself prepared all the vouchers of Shri Mahadev Prasad in his own handwriting & posted them. It has been argued that applicant could have got opportunity to cross examine Sh. Mahadev Prasad if he would have been produced in evidence as witness. Here, it is pertinent to mention that nothing has been mentioned in written argument that how non-production of Sh. Mahadev Prasad has prejudiced the applicant & how his appearance in witness box could have helped the delinquent. In background of above circumstance there remains nothing to assess that appearance of Shri Mahadev Prasad could have made any difference because independent of his presence, facts relating to charge no.8 are admitted facts of the delinquent & explanations offered by him stand fabricated & baseless.

91. Based on above discussion, I am of the view that opposite party has proved charge no.8 against applicant Sh. Shyamlal Agrawal.

92. In (1998) III LLJ 501 M.P., State Bank of India…….Petitioner v/s Central Government Industrial Tribunal Cum Labour Court & anr…..Respondents, referred from applicant side, respondent workman a cashier in the bank of petitioner. The charge against the applicant was that he had made in his own handwriting & authenticated the spurious entries in the passbook of account holder Sh. Dharmveer Prasad Bhatnagar (detail of various entries have been given). The second charge against the respondent was that he had authenticated without due authority balance in the account holder of charge no.1(detail mentioned). The act of the workman amounted to a major misconduct in the terms of para 521 of Shastri Award. In his explanation respondent workman submitted that he made the entries but entries were made without any ulterior motive in a passbook of which he was under the belief that it is unused & belongs to a closed amount. He further submitted about entries that he did so to demonstrate a person how entries are made in a passbook. The entries had no relevance to the entries of account maintained in the branch. It was further submitted that by making such entries, which, according to bank or spurious, the respondent workman had not received any financial gain as the passbook was unused & belonged to a closed account &, therefore, there was no occasion to make the entries of the passbook in the ledger. He further submitted that he acted in good faith with no intention to cause any loss to the bank or to any of the account holders. Not satisfied with the explanation a departmental enquiry was held by the bank. The enquiry officer held against charge no.1 that the bank was not put to any financial loss as a result of employee's act & the case of the presenting officer that entries in the passbook were made with ulterior motive was not established & the employee was proceeded against without making this aspect as part of the charge. Against charge no.1 it was further held that the presenting officer did not bring any material/evidence/argument to indicate that the bank was likely to suffer any financial loss as a result of employees act. Against charge no.2 similar finding was given by enquiry officer as charge no.1 the disciplinary authority however, did not agree with the findings of enquiry officer & recorded his own conclusion on the basis of entries made in the passbook & attending circumstances. After reply to show cause notice the disciplinary authority passed the order of discharge the applicant from service. Departmental appeal preferred by applicant was also dismissed. The Industrial Tribunal adjudicated the dispute referred to it & held that enquiry held by the enquiry officer was proper but punishment awarded is not commensurate with the misconduct of the respondent. Looking into past excellent service record of the respondent punishment awarded by disciplinary authority was altered to stoppage of two increments which cumulative effect & reinstatement in service with back wages.

93. Aggrieved by the order of tribunal petitioner bank filed writ petition before the Hon'ble High Court under Article 226/227 of the Constitution of India wherein finding of the tribunal was upheld with modification that respondent was not entitled to back wages from the date of discharge till the date of award.

94. From the perusal of the facts & circumstances of the case of State Bank of India…….Petitioner V/s Central Government Industrial Tribunal Cum Labour Court & anr…..Respondents, it is sufficiently clear that there is no mitigating circumstances existing in the case of Sh. Shyamlal Agrawal to derive any benefit in his favour from the cited case.

95. Reference has been made to the case reported in (2010) 2 SCC 772, State of U.P & Ors. …..Appellant V/s Saroj Kumar Singh …..Respondent & Court No.9, Writ- A No. 20337 of 1999, Shrish Singh ……Petitioner V/s Chairman, Gorakhpur Kshetriya Gramin Bank & others …..Respondents by learned representative of the applicant on the point that documents have been used in the enquiry case against the applicant for proving the charges but during enquiry proceeding those documents have not been proved by the witnesses which was necessary to be proved before placing reliance on those documents by enquiry officer. Repelling the above argument it has been argued by learned representative of the bank that law laid down by Hon'ble Supreme Court in (2010) 2 SCC 772, State of U.P & Ors. …..Appellant V/s Saroj Kumar Singh …..Respondent & Hon'ble Allahabad High Court in Court No.9, Writ- A No. 20337 of 1999, Shrish Singh ……Petitioner V/s Chairman, Gorakhpur Kshetriya Gramin Bank & others …..Respondents, does not apply to the facts of the present case. It has also been argued that in the present case three witnesses have been produced by management to prove the charges against the applicant wherein Sh. Jaswant Singh & Sh. Rajkumar are the complainant against Sh. Shyamlal & all the witnesses have been cross examined by the defence representative but in case of Shirish Singh no witness has been examined & finding has been given enquiry officer solely on the basis of report of handwriting expert. About the case of Sh. Saroj Kumar Singh it has been alleged by learned representative of non-applicant that in that case documents demanded by the charged officer were never

supplied by the management even after direction of Hon'ble High Court due to charged officer was unable to make reply of the charges levelled against him which resulted into failure of natural justice but in present case there is no such situation that any demanded document by delinquent was not supplied to him.

96. In (2010) 2 SCC 772, State of U.P & Ors. …..Appellant V/s Saroj Kumar Singh …..Respondent, respondent was an executive engineer at construction division-I, PWD, Rai Barielly during the period 6.1.2001 to 12.2.2001 & from 17.3.2001 to 28.4.2003. The appeal have been filed by appellant State of U.P. against the order passed by Hon'ble High Court at Judicature at Allahabad, Lucknow Bench, Lucknow whereby the Hon'ble High Court allowed the writ petition of the respondent by quashing & setting aside the order of his removal dated 24.12.2004 & further directing his reinstatement in service with all consequential benefits.

97. According to the facts of the case while functioning as executive engineer at Rai Barielly respondent was served with a charge sheet dated 24.2.2001 under rule 7 of U.P. Government Servant (Discipline & Appeal) Rules, 1999 making serious allegations of misconduct against him about misappropriation of public money. Rule 7 (v) of the above mentioned U.P. Government Servant (Discipline & Appeal) Rules, 1999 mandates as under :-

"(v) The charge sheet, along with the copy of documentary evidences mentioned therein and list of witnesses and their statements, if any shall be served on the charged Government servant personally or by registered post at the address mentioned in the official records in case the charge-sheet could not be served in aforesaid manner the charge-sheet shall be served by publication in a daily newspaper having wide circulation:

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged Government servant shall be permitted to inspect the same before the Inquiry Officer."

98. The above mentioned Rule clearly shows that disciplinary authority is duty bound to make available all relevant documents which are sought to be relied upon against the government servant in proof of the charges. It is only when the charge sheet together with documents is supplied that the government servant can be said to have had an effective and reasonable opportunity to present his written statement of defence. In view of the above mentioned mandate respondent made a written request dated 10.6.2001 to appellant demanding copies of documents relied in the charge sheet. Later number of reminders & requests were submitted by respondent but he was not supplied with the desired documents related to charge sheet. Respondent was compelled to move Hon'ble High Court for direction to supply the copy of documents but in spite of direction the documents were not supplied. It was neither disputed before the Hon'ble High Court nor before the Hon'ble Supreme Court that documents were not supplied to respondents on one pretext or other. The Hon'ble Divisional Bench has recorded the following conclusion :-

"After hearing the rival submission of learned counsel for the parties as well as the averments made in the affidavits, we are of the view that the inquiry officer has not afforded opportunities to the petitioner insofar as he fails to supply the documents to the petitioner which he has relied while framing the charges and further the petitioner was not afforded opportunity to lead the evidence and also denied the opportunities to cross-examination of the person. The inquiry officer has also failed to prove the charges during the inquiry proceedings by the recording any evidence. Thus, the inquiry is vitiated and is violation of principle of natural justice."

99. With above observation the writ petition was allowed, the appellant was directed to reinstate the respondent with all consequential benefits. However, the state was granted liberty to conduct fresh inquiry in accordance with law and the principles of natural justice. The Hon'ble Supreme Court in appeal has held in para 38 & 39 as under :

"38. In our opinion, the appellant have miserably failed to give any reasonable explanation as to why the documents have not been supplied to the respondent. The Division Bench of the High Court, therefore, very appropriately set aside the order of removal.

39. Taking into consideration the facts and circumstances of this case we have no hesitation in coming to the conclusion that the respondent had been denied a reasonable opportunity to defend himself the inquiry. We, therefore, have no reason to interfere with the judgment of the High Court." With above observation the appeal was dismissed by Hon'ble Supreme Court.

100. It shall appear from perusal of the entire case of Sh. Saroj Kumar Sinha that the case has been totally based on non-compliance of mandated provision of rule 7(v) of U.P. Government Servant (Discipline & Appeal) Rules, 1999 & documents mandated to be supplied under rule 7(v) were not given to the respondent which resulted into failure of principles of natural justice. In the case of Sh. Shyamlal there is nothing to indicate that any demand of the document was not met by bank or that there was any dissatisfaction in relation to non-supply of any documents, hence, no benefit can be derived in favour of applicant from the cited case.

101. Reference has been made by the learned counsel for the applicant to the judgement of the Hon'ble Court No.9 of High Court, Allahabad in writ petition no.- A No. 20337 of 1999, Shrish Singh ……Petitioner V/s Chairman, Gorakhpur Kshetriya Gramin Bank & others …..Respondents, on the point of quantum of punishment and also on the point that documents & the witnesses relating to charges have not been produced in evidence before the enquiry officer including holders of the account, hence, it should be held that charges have not been proved. Opposing the above

argument it has been argued by learned representative of opposite party that nature & standard of proof required to prove a charge depends upon contention of the charge & attending circumstances relating to the facts. The facts & attending circumstances of the charges against the delinquent Sh. Shyamlal are distinguishable from the facts of the case of Shirish Singh, hence, judgement in case of Shrish Singh is not applicable in the fact & circumstances of the present case of Sh. Shyamlal. In the cited case the petitioner was an employee within the Junior Management Grade Scale-1 with respondent Gorakhpur Kshetriya Gramin Bank, established under the Regional Rural Banks Act, 1976. He was served with a charge sheet dated 20.11.1995 which was replied by him on 15.2.96. Dissatisfied with the reply a departmental enquiry was initiated wherein the enquiry officer submitted its enquiry report on 21.2.98. Disciplinary authority issued the petitioner notice on receipt of enquiry report to have his say on the recommendation on the report of enquiry officer. Petitioner replied the notice but disciplinary authority not satisfied with the explanation of the petitioner & after recording its satisfaction on the enquiry report proceeded to impose the punishment of degradation of six lower stages in the applicable pay permanently & also directed the recovery of a sum of Rs.17500/- from the petitioner vide order of punishment dated 21.9.98. The appeal against the order of dismissal was also dismissed by the Board of Directors of the bank under resolution dated 7.1.99 without recording any reason with regard to challenge made in the appeal to the order of disciplinary authority.

102. The enquiry proceeding was instituted against the petitioner on the complaint of one Ram Kewal, an account holder in the respondent bank. According to Ram Kewal he had handed over cash of Rs.3000/-, 7000/- & 6000/- totalling Rs.16000/- to the petitioner who was dealing officer in the matter at relevant time. The petitioner had also issued receipts in respect of amount received by him but on verification these receipts were found to be forged & the alleged amount of Rs.16000/- was not been deposited in account of Ram Kewal.

103. In writ petition against the order of dismissal it was contended on behalf of petitioner that the entire enquiry proceedings against the petitioner stands vitiated on the ground that neither Ram Kewal entered into the witness box to support the allegation of payment of Rs.16000/- nor he entered into the witness box to establish that the receipts which were stated to have been received by him were actually handed over by the petitioner. The other contention of the petitioner was that charge was found proved on the basis of an ex-parte report of Handwriting expert which was not permissible in law. It was further submitted that before accepting the imposition of punishment the board was to have at least examined as to whether in absence of complainant entering into the witness box to prove the payment of Rs.16000/- to the petitioner, and to prove the actual issuance of receipt by the petitioner the charge could have been brought home or not. Referring to its previous decision referred from both the side it was observed by Hon'ble High Court in para 10 & 11 of the judgement as under:-

> "10. For the aforesaid reasons, we are satisfied that there has been no application of mind at the hands of the Board, while deciding the appeal filed by the petitioner, inasmuch as the Board necessarily ought to have examined as to whether in the absence of evidence led by the Bank to prove, the receipts to be genuine, and to have been issued by the petitioner, the charge as levelled against the petitioner could have been brought home or not.
>
> 11. We, therefore, set aside the order of the Board of Directors dated 7.1.1999 (Annexure-12 to the writ petition) and restore the appeal to its original number. The Board is directed to pass a fresh order in light of the observations made above, preferably within a period of eight weeks from the date of receipt of a certified copy of this order."

104. It is evident from the case of Sh. Shirish Singh that no material before the enquiry officer was available to prove the charge against the petitioner except the report/- of handwriting expert. The sole complainant Sh. Ram Kewal was not produced as witness who contended that on three different occasions Rs.3000, Rs.7000/- & Rs. 6000/- totalling Rs.16000/- were handed over to the petitioner who had issued receipts. In that circumstance, it was held that there was no evidence to support the finding of enquiry officer except the report of handwriting expert. The case of Sh. Shyamlal is distinguishable from the case of Sh. Shirish Singh because beside introduction of complainants as witness there has been other supporting admitted documents by delinquent & circumstances to support the charges against the applicant Sh. Shyamlal. In above fact & circumstances, I am of the view that no benefit can be derived in favour of Sh. Shyamlal from the cited cases of Sh. Saroj Kumar Singh & Sh. Shirish Singh respectively. On the point of quantum of punishment also there is no occasion to derive any mitigating situation in favour of Sh. Shyamlal because of the gravity of the nature of charges against Sh. Shyamlal are far graver than Sh. Shirish Singh.

105. Applicant Sh. Shayamlal in written argument has made reference in his favour to the case 2007(1) SCC 506, Jasbir Singh …..Appellant V/s Punjab & Sindh Bank & others …..Respondents. Learned counsel for the opposite party has submitted that the findings in the case of Sh. Jasbir Singh are not attracted to the case of Sh. Shyamlal because of difference in the fact & circumstances of both the cases. In 2007(1) SCC 506, Jasbir Singh …..Appellant V/s Punjab & Sindh Bank & others …..Respondents, the allegation against the petitioner Sh. Jasbir Singh was that he had forged the signature of a depositor Sh. Ratan Singh & fraudulently withdrawn a sum of Rs. 25000/- on 11.4.89. A departmental enquiry was started against him. A criminal case beside a departmental enquiry was also initiated under Section 409/201 IPC. He was acquitted of criminal charge. A purported confession alleged to have been made by him was found to have been done under undue coercion. It was noticed by learned Chief Judicial Magistrate that even Sh.

Ratan Singh did not make any complaint who was the account holder of the bank from whose account the alleged amount was said to have withdrawn. Other officers of the bank who were said to be involved were not proceeded against. It was held that on the alleged date of occurrence on 11.4.89 Rs.25000/- was not standing to the credit of Sh. Ratan Singh & Ratan Singh was not examined. Appellant was found to have been threatened by officers of the bank & his complaints soon after his release from the hands of the bank official had not been taken note of. It was also held that an adverse inference should be drawn against the prosecution witness Mukhtiar Singh in regard to encashment of withdrawal form without observing due formalities. The alleged fraudulent withdrawal was detected on 29.5.89 & the evidence produced by the prosecution was held to be so inconsistent, incompatible & weak that no order of conviction could be passed. There was no documentary evidence to connect the petitioner with offence, however, despite acquittal the departmental proceeding continued & ended in holding the charges proved against the petitioner ex-parte on the basis of intentional absence of petitioner during enquiry. The respondent bank had also filed a civil suit against the petitioner Jasbir Which was decreed but reversed in appeal by the court of Learned Additional District Judge. It was held by learned Additional District Judge that bank has miserably failed to prove that the petitioner had withdrawn Rs.25,000/- or embezzled the amount. This judgement had become final because its correctness was not challenged by the bank. Referring to it's various pronouncements by Hon'ble Supreme Court on the point of effects of judgement of civil court and judgement of acquittal in departmental proceeding when both the proceeding are based on identical facts, it was held by Hon'ble Supreme Court that neither the Hon'ble Court of Single Judge nor the Hon'ble Court of Division Bench considered the question on merit at all. It was held by Hon'ble Supreme Court that judgement of both the civil court and criminal court established that petitioner/appellant was treated very unfairly and unreasonably. Accordingly, writ appeal was allowed and appellant was ordered to be reinstated. The applicant has failed to explain as to how the principles of law in Jasbir Singh's case apply to the instant case of Shri Shyam Lal.

106. In R. Balakrishnan …….Petitioner V/s Food Corporation of India through its Managing Director & ors. ….Respondents. (decided on 7.2.2011 by Hon'ble Madras High Court), referred on behalf of applicant, six charges were levelled against the petitioner & five witnesses were named in the memo of charge to prove the charges levelled against the petitioner. The main charge against the accused was that he did not follow the advice of dealing assistant to restrict to the existing rate contract of Rs.244/- per Kg for purchase of Aluminium Phosphide & ordered for purchase of Aluminium at higher rate of Rs.305/- per kg overruling the observation of Associate Finance. This resulted into the loss of crores of rupees to the Corporation. To prove the charges only one witness was examined who was investigating officer of the case. No other witness was examined although five witnesses were named in the memo of charge. After conclusion of enquiry charge no.2,4 & 6 was held proved & charge no.1,3 & 5 was held not proved by enquiry officer. The disciplinary authority disagreed with the report of the enquiry officer on charges 1,3 & 5 which were held to be not proved. Petitioner Sh. R. Balakrishnan was dismissed vide order of respondent no.1 dated 24.7.2003.

107. Petitioner preferred petition under Article 226 of the Constitution of Indian before the Hon'ble Madras High Court on seven different grounds. The main grounds were that enquiry report of the enquiry officer was not given to the petitioner while asking his comment against disagreement with report of enquiry officer on charges 1,3 & 5, the enquiry officer acted as prosecutor & cross examined the witness of the management in lengthy manner which makes the enquiry perverse, the enquiry officer was holding equal rank to that of the petitioner & the charge was amended without giving opportunity to the petitioner of being heard.

108. The writ of the petitioner was allowed & the order of dismissal passed by first respondent was set aside. Petitioner had attained the age of superannuation hence, first respondent was directed to settle the pensionary benefits within a period of one week. It was held by Hon'ble High Court in para 13 of the judgement as under:-

"13. By applying the dictum laid down by the Supreme Court to the contents of the report of the Enquiry Officer, which is no doubt exhaustive in its nature, it shows that the prosecution has not proved the case cogently by producing documents through witnesses and placing such witnesses to be cross-examined on the side of the delinquent. In the absence of following such crucial method, which is the crux and basis of the concept of principles of natural justice, any amount of reasoning given by the Enquiry Officer regarding each and every one of the instance in so many pages is not going to validate the proceeding."

109. From the above decision of Hon'ble Madras High Court it is clear that beside the fact that documents were not made available to the petitioner on proper occasion to represent his case there was failure on the part of enquiry officer to follow the principle of natural justice by himself cross examining the witness & basing his finding without examining the relevant witnesses & providing opportunity to petitioner to cross examine them. In case of Sh. Shyamlal Agrawal it is evident from perusal of enquiry proceeding as mentioned above that there has been no occasion of non-supply of any document during enquiry proceeding. Even before this tribunal nothing has been pointed out at any stage that there has been non-supply of any document which was demanded by applicant or there has been failure of principle of natural justice for want of document. Similarly, the finding of the enquiry officer is based on the evidence of witnesses as well as attending circumstances. I am of the view that the case of R. Balakrishnan is distinguishable from the case of Sh. Shyamlal Agrawal & no benefit can be given to the applicant on the basis of the cited case. The matter of supply & non-supply of document & opportunity of cross examining the witness require to be produced by the management has been dealt at length while making disposal of issue of fairness of enquiry vide order 23.1.2017.

110. On the adequacy of quantum of punishment it has been argued by learned representative of applicant that punishment of dismissal from the service is disproportionate to the guilt of the delinquent Sh. Shyamlal Agrawal & his acts are innocent acts done in good faith in interest of the bank & its customers. Opposing the above contention it has been argued by learned representative of opposite party that all the acts committed by delinquent are fraud on the face of the record & has been done with intention of defrauding the customers of the bank in well planned manner for personal gain & awarded punishment is suitable & proportionate. It has also been argued that tribunal is not empowered to reduce the quantum of punishment in absence of any mitigating circumstances. Reliance has been placed on the various cases shown in the index cited by learned counsel for opposite party as discussed below.

111. In 2016 LAB I.C. (NOC) 333 (GAU.), Dambarudhas Barman ..Appellant v/s Central Bank of India & Ors ..Respondents, appellant was charged for misappropriation of amount deposited by customers on various dates. Evidence showed that various amounts were received from customers on various dates but they were not accounted & credited to the account of the customers. Enquiry officer found that employee had acted in violation of established norms & procedure of the bank. It was held by Hon'ble High Court that having regard to the nature of misconduct of the employee punishment of dismissal of the employee from the service is not disproportionate.

112. In 2016 LAB. I.C. 533 (Supreme Court), Prem Nath Bali …Appellant V/s Registrar, High Court of Delhi and another…..Respondents, appellant was appointed as LDC on 1.10.65 in the office of District & Session Judge, Delhi. On 23.1.90 while working as UDC & In-charge of copying agency (criminal) at Patiala House Court submitted a written complaint to the Officer-in-charge of copying agency, against one Window Clerk, namely Smt. Brijbala. In the complaint he stated that she is not discharging her duty effectively & she often used to close the counter of copying agency before the prescribed time & after lunch also she used to resume her duty after the prescribed time. Therefore, the litigants had occasion to make a complaint to the appellant & he had to depute other official to attend the work. In above circumstance, appellant requested for her transfer. On the same day Smt. Brijbala also made a statement to the superior officer on 22.1.90 after closing the application register at 1.00 pm that she came to know that some applications, which were not even entered in the register on that day, were entered in CD2/Dak register subsequently and the certified copies were got prepared of those applications on the same date. She was also pressurized to deliver the copies on the same date at 2.30 p.m. When she refused to deliver the copy, the appellant quarrelled with her and used unwanted words in the office, which were uncalled for. The officer-in-charge forwarded the statement of Smt. Brijbala to District Judge. On the basis of said complaint a preliminary enquiry was made & thereafter a departmental enquiry was also held against the appellant. Appellant was placed under suspension on 6.2.90. A memorandum of charge dated 18.7.90 was issued by office of District & Session Judge, Delhi that authority proposes to hold an enquiry against the appellant under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 which was accompanied with statement of article of charges & relevant documents. The disciplinary proceeding which commenced on 18.7.90 continued for more than nine years. After conclusion of enquiry penalty of compulsory retirement was imposed on the appellant vide order of disciplinary authority dated 28.10.99 which was challenged before the Hon'ble Administrative Judge. the Hon'ble Administrative Judge was pleased to dismiss the appeal of the appellant vide order dated 21.8.2000 against order of compulsory retirement dated 28.10.99 passed by disciplinary authority i.e. District & Session Judge, Delhi.

113. Appellant filed writ petition before Hon'ble High Court against order dated 21.8.2000 which was dismissed. Aggrieved by the order of Hon'ble High Court passed in writ petition appellant preferred appeal by special leave before Hon'ble Supreme Court wherein beside other things it was contended that punishment of compulsory retirement imposed on appellant was not commensurate with the gravity of the charge & was wholly disproportionate to the nature of the charge hence, Hon'ble Court interfere on the point of quantum of punishment & reduce it to make it in tune with gravity of charge. Decision of the disciplinary authority & Hon'ble High Court was upheld by Hon'ble Supreme Court about holding the appellant guilty of charges levelled against him & punishment of compulsory retirement imposed on the appellant was held to be commensurate with gravity of charge.

114. In 2005 LAB I.C. 3682 (Supreme Court), State Bank of India and another….Appellants V/s Bela Bagchi and others….Respondents, allegations against the respondent employee was that he had received money from an account holder for depositing in his saving bank account but did not deposit the amount. A fictitious credit entry was made in the pass book of account holder on 10.10.1985. Again in May, 1996 account holder handed over money which was also not deposited & fraudulent entry was made in the pass book. On 9th April, 1985 by four withdrawal slips money was withdrawn. Similar was the position on the another date. A hand-note was executed in favour of account-holder. Cheques for repayment of the amounts collected were issued which were dishonoured. This happened on five occasions. According to the bank the acts committed constitute individually & collectively gross misconduct as defined in paragraph 521 (4)(j) of the Sastry Award as retained by the Desai Award. This also constituted moral turpitude as laid down in paragraph 521(1) of the aforesaid Awards. In the charge-sheet it was indicated that if established punishment as laid down in paragraph 521(5) of the aforesaid Awards i.e. dismissal without notice can be imposed. During continuation of the proceedings on 22nd April, 1988 the Bank by its order intimated the employee that it had been decided to grant extension of service by a period of three months w.e.f. 1st May, 1988 to 31st July, 1988 to facilitate completion of departmental proceedings pending. Accordingly, he was granted extension of service w.e.f. 1st

May, 1988. Show-cause reply was submitted by the employee on 31.5.1988. By order dated 2.7.1988 the employee was dismissed from Bank's service with immediate effect. An appeal was preferred before the Deputy General Manager, Regional Office, requesting that on humanitarian grounds the punishment inflicted may be remitted so that the employee could get his terminal benefits. The prayer was rejected. Writ petition filed by respondent/delinquent was allowed by Hon'ble Single Judge on the ground that order was passed after age of superannuation which was confirmed by Hon'ble Division Bench holding that departmental proceedings cannot be continued after retirement unless there was specific provision to that effect in service rules. Appeal against the order of Hon'ble Division Bench was allowed & order of Hon'ble Single Judge & Division Bench was set aside. It was held that the bank had discretion to continue the service of the employee for the purpose of continuance & conclusion of departmental proceeding. It was also held that withdrawal of grievances by the account holders & absence of any loss to the bank is no defence which can be pleaded by respondent/delinquent. In para 15 of the judgement it has been held by Hon'ble Supreme Court as under:-

> "15. A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik(1996) (9) SCC 69). It is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority., The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of loss is also sans substance."

115. In 2005 LAB I.C. 461 (Supreme Court), J.A.Naiksatam….Appellant V/s Prothonotary and Senior Master, High Court of Bombay and others ….Respondents, appellants were working as Senior Translators in the office of the Chief Translator of Hon'ble Bombay High Court. A complaint by an advocate was filed with allegation that translators working in the office of Chief Translator had been indulging in corrupt practices & for obtaining official translation of the documents these translators had been demanding illegal gratification. Pursuant to the complaint an enquiry was directed by Hon'ble High Court. The enquiry officer examined some of the witnesses & on the basis of information collected by enquiry officer disciplinary proceedings were initiated against the two appellants. The enquiry officer found that the appellants were not guilty of the charges framed against them. The report of the enquiry officer was placed before the disciplinary authority who disagreed with the finding of the enquiry officer & held the appellant guilty of having demanded illegal gratification from the complainant. Show cause notice were issued to appellant by disciplinary authority. Appellants gave detailed explanation & prayed for accepting the report of the enquiry officer dropping the proceeding against them. Appellants did not seek for a personal hearing. After receipt of explanation disagreeing with the report of enquiry officer an order was passed by the disciplinary authority. Copy of the order was furnished to the appellants for their explanation on the issue as to why the penalty of dismissal be not imposed on them. After receipt of explanation from appellants & rejecting their explanation order of punishment of removal of the appellants from service was passed.

116. Review petition filed by appellants were dismissed by Hon'ble High Court. Aggrieved by order of review dated 28.3.2000 appellants filed writ petitions which were dismissed. Appellants filed appeals before Hon'ble Supreme Court which were dismissed. On the point of punishment it was held by Hon'ble Supreme Court in para 8 of the judgement as under:-

> "8. Lastly, it was contended that the punishments imposed on the appellants are disproportionate as there was no evidence at all to prove that these appellants received any illegal gratification. It was prayed that the appellants are innocent and the drastic punishment of dismissal should not have been imposed on them. In view of the present day situation of rampant corruption in public life, the High Court rightly imposed the punishment of dismissal on erring officers. In the result, we are not inclined to interfere with the findings arrived at by the High Court as the High Court considered all aspects before imposing such a penalty on the appellants. The appeals are dismissed accordingly…."

117. In 2016 LAB I.C. 1433 (Patna High Court), Uma Shankar Jha …….Petitioner V/s The Punjab National Bank and others….Respondent, petitioner, Sh. Uma Shankar Jha was initially appointed as clerk cum cashier at different branches before his termination from service. At the last leg of his service in the year 1999 while serving at Kulharia branch of the bank he was served with a letter dated 9.12.13 whereby he was placed under suspension with direction not to enter into the premises of the bank & not to touch any official records of the bank. Thereafter, a departmental proceeding was initiated against him vide chargesheet dated 27.12.2005 containing 12 various charges for different irregularities like debiting customers account unauthorisedly without their confirmation on the debit vouchers, unauthorisedly debiting/crediting accounts & releasing vouchers under his signature without consent or permission of the O.I.C. though O.I.C. was present in the bank, closing the account without the request of the customer & paying the

amount through cash order, debiting customers accounts unauthorisedly & getting the amount credited in his own account, preparing wrong debit/credit vouchers for covering of the fraud committed in the branch, conniving with late OIC Sh. Awadhesh Kumar in committing/concealing fraud in the branch & consequently getting benefit from the OIC etc of grave nature. Enquiry officer submitted the enquiry report wherein all the charges except charge no.4 was found proved. The petitioner was dismissed from the service. Aggrieved by the order of dismissal petitioner preferred writ petition before the Hon'ble High Court. It was contended on behalf of petitioner about quantum of punishment that there was no loss to the bank & it was only an innocent negligence on the part of petitioner on account of work pressure. On behalf of bank it was submitted that charges proved against the petitioner are very serious in nature & it was not a mere innocent negligence. The petition of the petitioner was dismissed by Hon'ble High Court. Referring to various pronouncements of Hon'ble Supreme Court it was held by Hon'ble High Court in para 11 of the judgement as under :-

> "11. But in the present case, facts are quite different, as charge that has been proved against the petitioner cannot be said to be of innocent mistake when he has withdrawn the money of customers without their consent and credited to his account which cannot be said to be a mistake rather it is completely a fraud and dishonesty of highest degree."

118. On the basis of discussions made above in relation to cases cited on behalf of both the parties & looking into the nature of charges levelled against delinquent Sh. Shyamlal Agrawal, it is clear that there is no scope to interfere with the quantum of punishment awarded by disciplinary authority & I am of the view that punishment awarded is not disproportionate to the nature & guilt of the delinquent.

119. Based on above discussion & for the reasons explained therein all the objections raised on behalf of applicant Sh. Shyamlal Agrawal are found to be meritless & rejected accordingly. Applicant has failed to prove that action of the management of State Bank of India through Asstt. General Manager, Jaipur in dismissing the services of Sh. Shyamlal Agrawal, Assistant vide order dated 11.4.2007 is unfair & unjustified. Applicant is not entitled to any relief from the opposite party bank. Statement of claim of the applicant is dismissed. The reference under adjudication is answered accordingly.

120. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 26 फरवरी, 2018

का.आ. 399.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **उत्तरी रेलवे** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ,** के पंचाट **(संदर्भ संख्या–54/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/2/2018 को प्राप्त हुआ था।

[सं. एल-41012/16/2013-आई.आर. (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th February, 2018

S.O. 399.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Rf. No. 54/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow,** as shown in the Annexure, in the Industrial Dispute between the **management of Northern Railway and their workmen,** received by the Central Government on 26/02/2018.

[No. L-41012/16/2013-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 54/2013

Ref.No. L-41012/16/2013-IR(B-I) dated 15.07.2013

BETWEEN

Sri Ram Awadh S/o Shri Merai

R/o Raipur Semraha, P.O. Naipur,

Gonda(UP)

AND

1. The Divisional Railway Manager,

   Northern Railway,

   DRM, Hazratganj,

   Lucknow(UP)

AWARD

1 By order No. L-41012/16/2013-IR(B-I) dated 15.07.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Ram Awadh S/o Shri Merai, Gonda and the DRM, NR, Lucknow for adjudication.

2. The reference under adjudication is:

"WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW IN IMPOSING THE PUNISHMENT OF REMOVAL FROM SERVICES UPON SRI RAM AWADH S/O SRI MERAI W.E.F. 27.08.2010 AND HIS APPEAL DISMISSAL ORDER DATED 24.02.2011, IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE CONCERNED WORKMAN IS ENTITLED?"

3. The workman in his claim statement W-6 has stated in brief that he was appointed as Porter on 5.12.1980, under the administrative control of the opposite parties, on 26.4.1999 he was transferred from Ayodhya to Sarai Harakhoo on 26.4.99 LPC was provided to him by Station Supdt., NR Ayodhya but did not give him the Spare Memo; and Duty Pass was also not given to him, yet the applicant reached Sarai Harakhoo to report for duty on his own expenses but he was not permitted by the Station Supdt., because he did not have Spare Memo. It has further been stated in the claim statement that the petitioner was compelled to run several times between Sarai Harakho and Ayodhya, but neither he was permitted to join duty at Sarai Harkhoo nor Spare Memo was provided to him. Therefore he was compelled to file OA no. 629/2005 before the CAT, Lucknow, vide order dated 7.09.2006 the CAT directed the opposite party to consider his request and to resolve his grievances.

4. The petitioner has further emphasized that opposite party no.2 DOM, NR was annoyed with him for filling the case before the CAT and did not permit him to resume his duty, issued him a major penalty charge sheet dated 04.05.2007 with the allegations that the workman has been abstaining himself from duty since 26.4.99, the aforesaid order in itself is not correct since the petitioner was intentionally harassed by Statio Supdt. Ayodhya and Sarai Harakhoo. It has further been stated that D&AR enquiry was delayed and he was kept out of job on the pretext of the pendency of enquiry, although representation dt. 24.12.2007, 20.1.2008 and 3.3.2008 were sent by him. Due to continuous alleged harassment the matter was raised before RLC(C) Lucknow in Jan.2009 by the workman, after prolonged discussion under conciliation proceeding a settlement was made and the opposite party thereby agreed to provide Spare Memo so as to facilitate the joining of the workman.

5. The workman has stressed that he was asked to submit an affidavit regarding his sickness from 16.04.99 to 23.03.2008 before permitting him to join his duty. Under the compelled circumstances being faced since 1999 the

petitioner submitted an affidavit drafted by the opposite party, thereafter he was permitted to join on 05.06.2008 on the post of Porter at Sarai Harkhoo Station but the enquiry proceedings were not dropped. The workman has alleged that the enquiry was not conducted as per rules, no prosecution witness appeared before the enquiry officer, the workman was not given any opportunity to cross examine the material-witness, moreover he was not permitted to submit his defence. The enquiry report has allegedly been quite perverse, it lacked fairness and the consequent order of removal from service was patently illegal since it was passed after 2 years and 5 months from the date of receipt of the report of the enquiry officer. The aforesaid affidavit dt. 12.03.2008 drafted by the opposite party staff has been dealt with, it was infact fictitious and manipulated. Appeal filed by the workman was withdrawn on the advice of the office staff and the same was rejected with a non speaking order dt. 24.02.2011. It has further been stated in the claim statement that the Disciplinary Authority and the Appellatte Authority did not consider the material fact properly, 30 years service rendered by the workman was also ignored, and very harsh punishment of removal from service was passed which is disproportionate, unjust and illegal.

6. With the aforesaid pleadings request has been made by the workman to declare the termination order dt. 27.09.2001 as illegal, and prayer has been made for reinstatement with full back wages etc.

7. Several documents have been annexed with the claim statement.

8. With strong denial of the allegations leveled in the claim statement, management has filed written statement M-7. It has been admitted that the workman was transferred on 26.04.99 from Ayodhya to Sarai Harkhoo but he failed to join duty and was treated as absent from 26.04.99 to 02.03.2008, therefore major punishment penalty charge sheet was issued under rules and an enquiry was conducted comprehensively. The opposite party has stated that because of being found guilty for unauthorized absence, enquiry report was submitted and penalty of removal from service was imposed. The management has admitted the proceedings before RLC (C) Lucknow. The enquiry was quite fair, proper and ample opportunity was provided to workman to defend himself and he has participated in the enquiry proceedings.

9. The opposite party has further stated that the workman himself on his own, has submitted affidavit before the Railway Authorities mentioning therein that he was sick from 16.04.99 to 20.03.2008 but before the Tribunal he wrongly alleged that the affidavit was taken by manipulation by the Railway Officers. Since the petitioner has abstained himself from the duty for about 8 years without any information of leave for his sickness etc, the order of removal from service is fully justified and proper.

10. Thereafter, rejoinder W-8 has been filed by the workman, reiterating the pleas taken in the claim statement, allegations made in the written statement have been denied. As per application M-12 certain documents have been filed by the management.

11. On 14.10.2015 following preliminary issues were framed;

    1. Whether the departmental enquiry is fair and proper?

    2. Whether the findings of the enquiry officer are perverse?

12. The workman has filed affidavit W-13 in evidence. He has been cross examined on behalf of the management. Opposite party filed an affidavit M-15 of an employee of the DRM office. MW has been cross examined on behalf of the workman. Vide order dt. 12.8.06 it has been held by this Tribunal that the departmental enquiry was not conducted in fair and proper manner. Consequential findings of the enquiry officer were treated as perverse. Both the preliminary issues were decided against the opposite party. However although several opportunities were provided to the management to adduce his evidence. It could not submit any evidence further the management furnished a copy of letter dt. 18.10.2016 informing thereby that the then Station Supdt. Ayodhya and Sarai Harkhoo who have retired much earlier, have died.

13. Arguments of both the parties have been heard at length. Record has been scanned thoroughly.

14. Learned AR for the workman has submitted that illegal and harsh order of removal from service was passed by the management and this fact was ignored that the petitioner could not attend the duty because of his ailment, his superior authority/Station Supdt. intentionally harassed him and did not permit him to join duty. On the contrary the management has emphasized that the workman has been quite habitual to abstain himself from duty without any genuine reason more over no prior permission was taken by the workman. The management has further submitted that the enquiry was conducted quite comprehensively and as per Rules, sufficient opportunity was provided to the workman to defend himself.

15. In this regard the so called memo of settlement dt. 29.02.2008, admitted to both the parties, is also quite relevant. The management although accepted this document, asserts that the varacity and legality can not be inferred since it has not been signed by the competent authority. Learned AR for the workman while taking strong objection to this submission asserts that the authority of RLC (C) is being challenged by the management before this Tribunal.

16. It is evident from the record that the then Station Supdt. Ayodhya and Sarai Harkhoo, Sri Tilak Dhari and Sri Govind NIgam were not produced in the enquiry on the ground that they had retired. This ground of non producing witness does not appear satisfactory. The address of retired railway officials, who have been taking regular pensionary benefits etc, could be easily obtained. More over no sincere effort was made by the management to adduce those retired officer before this Tribunal as well, although the learned AR for the management sought several adjournments on this ground, but his efforts were futile, since superior railway officers did not make any sincere endeavour in this regard.

17. Last para of the enquiry report dated 20.3.08 is very crucial wherein it has been mentioned by the enquiry officer that the charges can not be proved with cogent evidence, since the then Station Supdts., have retired earlier.

18. The findings recorded by this Tribunal/Court vide order dt. 12.8.16, have not been challenged before any other Hon'ble Competent Court. Despite being provided sufficient opportunity, no further evidence in support of the charges framed against the workman could be adduced by the management. This fact is not to be over looked that during the so called long absence of the petitioner, whether any memo/charge sheet was sent by the management or any such receipt therefore was obtained. The delay of about 28 months after the final findings of the enquiry officer having been received, has also not been genuinenly explained by the management. No doubt an affidavit dt. 12.3.08 is on record wherein fact of w.e.f. 16.4.99 to 2.3.08 has been mentioned. But on account of this affidavit the inference drawn by the enquiry officer and competent disciplinary authority can not be appreciated legally.

19. After having heard the intellect arguments of both the Learned Authorized Representatives, in the light of the record available before this court, it is inferred that the order of removal from service, passed by the management against the workman and further both the dismissal order dt. 27.08.2010 and the appellate order dated 24.02.2011, can not be adjudged as legal and justified. The termination order and the appellate order are set aside. The workman is entitled to reinstatement from the relevant date and he shall get all the pecuniary benefit as well. The management is directed to ensure the payment of arrears to the workman within 10 weeks from the date of publication of award failing which the workman shall also get interest @ 6% per annum.

20. Award as above.

LUCKNOW

11.01.2018

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 26 फरवरी, 2018

का.आ. 400.— औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **उत्तरी रेलवे** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ** के पंचाट **(संदर्भ संख्या–16/2014)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/2/2018 को प्राप्त हुआ था।

[सं. एल-41011/08/2014-आई.आर. (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th February, 2018

S.O. 400.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Rf. No. 16/2014)** of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow,** as shown in the Annexure, in the Industrial Dispute between the **management of Northern Railway and their workmen,** received by the Central Government on 26/02/2018.

[No. L-41011/08/2014-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 16/2014

Ref.No. L-41011/08/2014-IR(B-I) dated 19.03.2014

BETWEEN

The Mandal Sanghthan Mantri

Uttar Railway Karmchari Union,

C/o Sri Parvej Alam, 283/63 Kh, Ghari Kannora

Premvati Nagar, PO, Manak Nagar

Lucknow

AND

1. Sr.Divisional Personal Officer

Northern Railway, DRM office,

Hazratganj, Lucknow

AWARD

1. By order No. L-41011/08/2014-IR(B-I) dated 19.03.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Mandal Sanghthan Mantri, Uttar Railway Karmchari Union, Lucknow and the Sr.Divisional Personal Officer, Northern Railway, Lucknow for adjudication.

2. The reference under adjudication is:

"KYA PRABNDHAN, UTTAR RAILWAY, LUCKNOW DWARA APNE KARMKAR SRI GANGA PRASAD S/O SRI RAM LAL, MASSON, ADHINASTH VARI KHAND ABHIYANTA (KARYA)/LOCO(E)/UTTAR RAILWAY/ CHARBAGH/LUCKNOW KO SEVANIVRAT HIT LABHO KI GARNA MOOL VETAN RS.12600/- KE ANUSAR NA KIYA JANA UCHIT EVAM VADHANIK HAI? YADI NAHIN TO KARMKAR KYA ANUTOSH PANE KA ADHIKARI HAI?"

3. As per the claim statement W-4, the workman has stated in brief that he has retired as Masson on 28.2.2011, while working under the subordination of Sr. Div. Engineer(Loco) Charbagh, Northern Railway, Lucknow and at the time of his retirement his post retiral dues were paid as per the basic salary of Rs.11810/= while other benefits till 28.02.2011 were paid as per basic salary of Rs.12600/-. It is alleged that the post retiral dues calculation was violative of Railway Pension Rules 1993 as well as I.D. Act., 1947 and he has been subjected to continuous loss after his retirement and more over no show-cause notice was issued to him while reducing his salary. The workman has further asserted that till his retirement the pay fixation and payment of dues was determined by the employer himself and the workman had no role in it, neither any charge sheet etc. was given to him in this regard. He has submitted that the post retiral consequential benefits should not have been calculated as per the basic salary of Rs.11810/-.

4. With the aforesaid pleadings submissions has been made by the petitioner to ensure the payment of arrear pertaining to his post retiral dues taking into account his salary @ Rs.12600/-, further interest @ 12% has also been demanded.

5. The opposite party in its written statement M-6, has accepted that the workman was posted as Masson and got retired on 28.2.2011 and his last pay drawn was Rs.11810/- but his salary was wrongly fixed in pay band 1 Grade Pay 2800/-, resulting into over payment amount of Rs.49794/- which was recovered from DCRG of the ex-employee according to Railway Rules, and there has been no violation of principle of natural justice and post retiral dues were re-fixed according to Rs.11810/-, and the petitioner workman is not entitled to get

so called arrear according to the calculation of Rs.12600/- In para 6 of the written statement the management has given the pay fixation details of the workman. The management has requested to reject the claim statement.

6. With strong denial of the allegation leveled in the claim statement, the workman has filed rejoinder W-8, reiterating the pleas taken the claim statement. The workman has submitted that written statement has not been signed by the competent authority.

7. As per list W-9 photo copies of the certain documents have been filed by the workman.

8. The workman filed his affidavit W-7 in his evidence. He has been thoroughly cross examined on behalf of the management.

9. The management has filed affidavit M-9 of Sri R.K.Jain, ADEN, DRM Office, Northern Railway, Lucknow; he has been cross-examined on behalf of the workman.

10. Arguments of both the parties have been heard at length. Record has been scanned thoroughly.

11. The main contention of the petitioner workman is that on his retirement although his retiral dues ought to have been paid as per the basic salary of Rs.12600/- but retirement benefits/dues were calculated as per salary of Rs.11810/- which was violative of Railway Rules as well as I.D. Act. The management has explained that the salary of the workman was wrongly fixed and consequently the over payment amount of Rs.49794/- was recovered from the DCRG of the ex-employee according to Railway Rules and there was no violation of principle of natural justice.

12. During the course of argument, the Learned Authorized Representative of the workman has referred Railway Board Circular No. 2016/F(E)/II/6/3, RBE No. 72/16 dated 22.6.2016. Learned Authorized Representative for the management submits that the Railway Board circular is legal and is to be interpreted as per Rules accordingly, and this does not help the case of the workman.

13. Learned AR for the workman has relied upon the following Rulings:

    i. 2009(120) FLR, State of Bihar v/s Pandey Jagdishwar Prasad page 352, Hon'ble Supreme Court.

    ii. 2010(127) FLR, Lalta Prasad Pandey v/s State of UP and others, page 54 Hon'ble High Court,Allahabad.

14. Learned AR for the management while refuting the submission of the workman, asserts that the said Rulings do not apply to the facts of the matter in issue.

15. I fully agree with the principle propounded by Hon'ble Supreme Court and Hon'ble High Court in the aforesaid two Rulings. Hon'ble Supreme Court in the Pandey Jagdishwar Prasad (Supra) has directed to State/Department for re-fixation of retiral benefits of the employee. The matter before the Hon'ble Apex Court was regarding "TWO DATES OF BIRTH BEING RECORDED IN THE SERVICE BOOK" And this controversy was raised by the employer State after 31 years. In the other case of Sri Lalta Prasad Pandey (Supra) the matter of sanctioning selection grade to the employee was found to have been wrongly calculated and the benefits were withdrawn after 10 years. Generally the sanction of selection grade is thoroughly scrutinized by the Competent Authority/Committee appointed by the department.

16. In the matter in issue before this Court/Tribunal, the petitioner workman retired on 28.2.2011, his actual last pay drawn was Rs.11810/- but it was wrongly fixed in higher scale, about 2 years back. In such circumstances the aforesaid Rulings, cited on behalf of the workman, do not apply to the present case and do not support the version adopted by the petitioner workman. The excess payment made to the workman, has to be recovered from him genuinely as per Rules. Apparently no procedural irregularities or illegality on the part of the management has neither been proved by the workman, nor it is reflected from the record available before this court.

17. After having heard both the parties at length, in the light of the evidence and documents available before this court it is inferred that the calculation conducted by the management regarding post retiral dues of the petitioner workman, ignoring his basic salary of Rs.12600/-.can not be adjudged as improper or illegal. The workman is not entitled to any relief.

18. Award accordingly.

LUCKNOW RAKESH KUMAR, Presiding Officer

07.12. 2017

नई दिल्ली, 28 फरवरी, 2018

का.आ. 401.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स ई.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1 धनबाद** के पंचाट **(संदर्भ संख्या–44/1997)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/167/1995-आई.आर. (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 401.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Ref. No. 44/1997)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. ECL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/167/1995-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D.Act.1947

Ref. No. 44 of 1997

Employer in relation to the management of Nirsa.Area M/S ECL

AND

Their workmen

Present : **Shri R. K. Saran,** Presiding Officer

Appearances :

For the employers : Shri D. K.Verma, Advocate

For the Workman : Shri D. Mukherjee, Rep.

State : Jharkhand. Industry : Coal.

Dated : 12/01 /2018

AWARD

By order No. L-20012 /167 /1995/ IR (C-I) dt. 04/02/1997 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section(1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Union that Sri Jitan Yadav and others (as per list enclosed) are eligible for regularisation for retrospective effect in category-I by the management to Gopalpura Colliery of M/S ECL is legal and justified ? If so, to what relief are these workman entitled?"

List of workmen

Sl. No .	Name	Father's Name
1.	Jitan Yadav	Shri Shitoti Yadav
2.	Shri Bhola Yadav	Sri Meghan Yadav

3. Sri Jadu Pandit	Sri Rasdular Pandit
4. Balesjhwar Pandit	Sri Sitaram Pandit
5. Sri Dhananjay Thakur	Sri Kusum Thakur
6. Sri Mohan Mahato	Sri Balsundar Mahato
7. Sri Motor Lal Mahato	Sri Hiru Mahato
8. Sri Baikunth Yadav	Sri Chandradeo Yadav
9. Sri Prem Yadav	Sri Rameshwar Yadav
10. Sri Guhi Roy	Sri Tulsi Roy
11. Sri Subhas Yadav	Sri Satyanarayan Yadav
12. Sri Omikant Yadav	Sri Nabratan Yadav
13. Sri Arjun Yadav	Sri Meghan Yadav
14. Sri Harinath Yadav	Sri Sitaram Yadav
15. Sri Gupteshwar Yadav	Sri Sitaram Yadav
16. Sri Harendra Yadav	Sri Shashi Yadav

2. This Case is received from the Ministry on 10.02.1997. During the pendency of the case Ld. Secretary of sponsoring Union submits that, he does not want to contest case. It is felt that the dispute between parties is resolved in the meantime. Hence "No dispute" award is passed. communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 402.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–50/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/54/2013-आई.आर. (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 402 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Ref. No. 50 of 2013) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/54/2013-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No.1, DHANBAD

In the matter of reference U/10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 50/2013

Employer in relation to the management of Lodna Area of M/s. BCCL,

AND

Their workman

Present : **Shri R. K. Saran**

Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand. Industry: Coal

Dated- 03/01/ 2018

AWARD

By order No. L-20012/54/2013-IR(CM-I) dated 24/10/2013 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Lodna Area of M/s. BCCL in not correcting the date of birth of Md. Islam as 10/12/1970 is fair and justified? To what relief the concerned workman is entitled to?"

2. After receipt of the reference, both parties are noticed. But none appears from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 403.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–59/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/655/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 59 of 1998) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/655/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 59/1998

Employer in relation to the management of Govindpur Area of M/s BCCL,

AND

Their workman.

Present: **Shri R.K.Saran**

Presiding Officer.

Appearances:

For the Employers : Shri D.K.Verma, Advocate

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated- 12/01/2018

AWARD

By order No. L-20012/655/1997-IR(C-I) dated 14/08/1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Govindpur Area No. III M/s. BCCL in not regularizing Shri Kameshwar Singh as Loading Inspector is legal & justified? If not, to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates by the workman, none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 404.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–73/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/704/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 73 of 1998) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/704/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No.1, DHANBAD

In the matter of reference U/10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 73/1998

Employer in relation to the management of Kusunda Area of M/s BCCL,

AND

Their workman.

Present: **Shri R. K. Saran**

Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated: 12/01/ 2018

AWARD

By order No. L-20012/704/97-IR(C-I) dated 10/09/1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of Kusunda Area of BCCL in not regularizing S/Shri Ram Awadh Yadav and Lchuman Singh as Dumpman/Tripman/ Munshi because they are non- Matriculate keeping in view of the Cadre Scheme and I .I.40 of JBCCI is legal & justified? If not, to what relief are these workman entitled ?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 405.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–78/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/716/1997-आई.आर. (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 405.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 78 of 1998)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/716/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 78/1998

Employer in relation to the management of Govindpur Area of M/s BCCL,

AND

Their workman

Present : **Shri R.K.Saran**

Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated-12/01/ 2018

AWARD

By order No. L-20012/716/1997-IR(C-I) dated 10/09/1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of South Govindpur Colliery M/s BCCL for premature retirement of Sh. Haldhar Bouri is legal & Justified? If not, to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 406.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–79/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/717/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 79 of 1998)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/717/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act.1947

Ref. No. 79 of 1998

Employer in relation to the management of Govindpur Area M/s BCCL .

AND

Their workmen

Present : **Shri R.K.Saran**

Presiding Officer

Appearances :

For the employers : None

For the Workman. : Shri S.C.Gour, Rep.

State : Jharkhand. Industry : Coal.

Dated 12/01/2018

AWARD

By order No. L-20012 /717 /1997/ IR (C-I) dt. 10/09/1998 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

" Whether the action of the management of Govindpur Area No. III M/s BCCL for denial/regularisation of S/Shri Mochi Ram Barhi and Dashrath Gope transporting Munshi is legal & justified? If not, to what relief the workman are entitled?"

2. This Case is received from the Ministry on 21.09.1998. During the pendency of the case Ld. Counsel of sponsoring Union submits that, union does not want to contest case. It is felt that the dispute between parties is resolved in the meantime. Hence "No dispute" award is passed. communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 407.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–83/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/732/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 407.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 83 of 1998)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/732/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 83/1998

Employer in relation to the management of Bagdigi Colliery of M/s BCCL,

AND

Their workman

Present: **Shri R. K. Saran**

Presiding Officer.

Appearances:

For the Employers :- None

For the workman. :- None

State : Jharkhand.

Industry- Coal

Dated- 12/01/ 2018

AWARD

By order No. L-20012/732/1997-IR(C-I) dated 10/09/1998 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

" Whether the action of the management of Bagdigi Colliery of M/s BCCL in not paying the wages to Sri Saffique Khan for the period from 25.05.1995 to 23.02.1996 and other benefits as per the Golden Hand shake scheme is legal & Justified? If not, to what relief is the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–83/1999)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/546/1998-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 83 of 1999)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/546/1998-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 83/1999

Employer in relation to the management of Block-II Area M/s BCCL,

AND

Their workman

Present: **Shri R. K. Saran**

Presiding Officer.

Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated- 3/01/ 2018

AWARD

By order No. L-20012/546/1998-IR(C-I) dated 17/05/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of BCCL in retiring Smt. Panumati Kamin without referring her to Medical Board for deciding age is justified? if not to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing none appears on behalf of the sponsoring Union/workman. Management is present. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–92/1997)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/77/1996-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 92 of 1997)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/77/1996-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 92/1997

Employer in relation to the management of Angarpathra Colliery of M/s BCCL,

AND

Their workman

Present: **Shri R. K. Saran**

Presiding Officer.

Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated- 8/01/ 2018

AWARD

By order No. L-20012/77/1996-IR(C-I) dated 03/04/1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Angarpathra Colliery of M/s. BCCL in denying to provide employment to Sri Mahendra Rajwar dependent son of late Gujri Kamin Ex-Wagon Loader of Angarpathra Colliery under para 9:4:2 of NCWA is justified? if not, ot what relief the dependent son, Shri Mahendre Rajwar is entitled?"

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the sponsoring Union/ workman. Management is present. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 410.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद** के पंचाट **(संदर्भ संख्या–106/1998)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/575/1997-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 106 of 1998)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/575/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 106/1998

Employer in relation to the management of Kusunda Area of M/s BCCL,

AND

Their workman

Present: Shri R. K. Saran**,** Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated : 12/01/ 2018

AWARD

By order No. L-20012/575/1997-IR(C-I) dated 01/12/1998 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Kusunda Area of BCCL in demoting the workman Sri Sudarshan Koiri from Cat. V to Cat. III from Oct, 96 is justified? If not, to what relief the workman is entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या–110/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/340/1998-आई आर- (सी. I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 110 of 1998)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/340/1998-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 110/1998

Employer in relation to the management Koyla Bhawan of M/s BCCL,

AND

Their workman

Present : Shri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry: Coal

Dated : 12/01/ 2018

AWARD

By order No. L-20012/340/1997-IR(C-I) dated 01/12/1998 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the union to reinstate and pay back wages to Sri G. A. Gandhi, a dismissed workman is justified? If no, to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, धनबाद के पंचाट (संदर्भ संख्या–178/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/218/1999-आई आर- (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 178 of 1999) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/218/1999-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 178/1999

Employer in relation to the management of Hariajam Colliery of M/s. ECL,

AND

Their workman

Present : Shri R.K. Saran**,** Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry : Coal

Dated :12/01/ 2018

AWARD

By order No. L-20012/218/1999-IR(C-I) dated 03/11/1999 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the retrenchment of Shri Ram Naresh Singh, Foreman of Hariajam Colliery of Mugma Area of M/s ECL W.e.f. 27/03/1996 is justified? If not, what relief the workman concerned is entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या–230/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/54/2000-आई-आर- (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 230 of 2000)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/54/2000-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 230/2000

Employer in relation to the management of P.B. Area M/s BCCL,

AND

Their workman

Present : Shri R.K.Saran

Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry : Coal

Dated : 12/01/2018

AWARD

By Order No. L-20012/54/2000-IR(C-I) dated 24/07/2000 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub–section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of union to regularize Sri Ramshankar Koiri as a pump Operator Supervisor with Consequential benefits is proper and justified? If so, to what relief is the workman entitled and from what date?"

2. After receipt of the reference, both parties are noticed. But none appears from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद** के पंचाट **(संदर्भ संख्या–01/2015)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/134/2014-आई आर- (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad (Rf. No. 01 of 2015)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 27.02.2018.

[No. L-20012/134/2014-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Shri R. K. Saran,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

REFERENCE NO 01 OF 2015.

PARTIES : : The Secretary,

Bihar Colliery Kamgar Union,

Jharnapara, Hirapur, Dhanbad-826001

Vs.

The General Manager,

P. B. Area of M/s BCCL,

PO : Kusunda, Dhanbad (Jharkhand) 828116.

Order No.**L-20012/134/2014-IR(CM-I) dt. 05.01.2015**

APPEARANCES :

On behalf of the workman/Union : Mr. S. C. Gaur, Ld. Advocate

On behalf of the Management : Mr. N. M. Kumar, Ld. Advocate

State : Jharkhand **Industry : Coal**

Dated, Dhanbad, the 1st Jan., 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No**. L-20012/134/2014-IR(CM-I) dt. 05.01.2015**

SCHEDULE

Whether the action of the Management of Simlabahal Colliery under P.B. Area of M/s BCCL in dismissing Shri Shankar Bauri, Ex. M/Loader from the services vide letter dt.18.09.2006 is fair and justified ? To what relief the concerned workman is entitled to?"

On receipt of the **Order** No**.L-20012/134/2014-IR (CM-I) dt. 05.01.2015** mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 01 of 2015 was registered on 19.01.2015. and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Advocates respectively appeared, and contested the case to the extent the case stands reserved for Award.

2. This Reference case as narrated in the WS about the workman Sri Shankar Bauri, had been a permanent M/Loader at Simlabahal Colliery under the Management of M/s BCCL, a Group of collieries under the part of the Coal India Ltd. exclusively based at Dhanbad .He had been abruptly fallen sick early in 2006 and so he was escorted to his native place by family members for specialized treatment at the village by the Doctor there and the matter was kept informed to the Management about the workman's illness from time to time .As the treatment appeared exhaustive and prolonged in nature . keeping this fact in mind the workman concerned sought more time with request to defer the impending enquiry but the adamant Enquiry Officer under the instruction of Disciplinary authority struck to its instant and in a calculative move conducted the so called enquiry in July, 2006, thereby restricting the workman to take assistance of his co-worker as the workman concerned attributed quite ignorant about the enquiry and little knowledge especially about the proceedings .Thereafter the Management came with serving 2nd Show Cause Notice to the workman in July,2006 without furnishing therewith the alleged Enquiry proceedings, a move depriving

of the workman concerned the opportunity to come out with reply in true letters spirit. Finally the Management dismissed the workman in Sept., 2006 with denial of providing provide the copy of the Dismissal Letter which amounted to violation of the principle of natural justice to finally represent Appeal .However as the workman came to know about it the appeal was filed but till date no response came out as the Appellate Authority acted as a Punishing Authority.

Here the workman concerned had not exhibited adamantine attitude in not responding to the communication of the Management about his absence, as alleged by the Management .Further Petitioner assertion here that non-supply of the documents, as sought by the delinquent workman just to deprive the workman concerned of the opportunity to defend himself in the enquiry proceedings as in the instant case ,and hence, the same has vitiated the order of termination. It was found the extreme punishment of dismissal from service was too harsh and disproportionate to gravity of the charge the workman committed. Apart from it, the workman was thrown out of job and forced to sit idle since issuance of the charge sheet to the workman .

In the instant case logics are not at all material in determining the proportionality of the punishment ,inflicted upon the workman concerned as there is no vagueness in the claims of the workman as submission made in WS that claims are bare facts and punishment of dismissal deserves to be set aside and there is not much in force in Management contention by way of dismissal order..The petitioner as a matter of facts contends that he fairly explained the reasons for his absence by stating that he did not have an intention nor desire to disobey the order of his higher authority or violate Company's rules and regulations but the reasons was purely personal and beyond the control of the workman

3 In contrast the Management has miserably proved failure to file WS to counter the charges brought in by the Sponsoring Union against the OP/Management despite fresh notice and numerous adjournments availed over the issue. The prolong silence maintained over filing WS drops sufficient hints that the Management did not have objection to the extent the case is set to be rolling nor did anything to say .

4. Incidents like this are not exceptional and often heard of such cases as far as Group of the Collieries under the Management of M/s BCCL, a part of the Coal India Ltd., cases like this grab headlines since past couple of years where numerous cases on same ground might have been pouring in slowly but steadily and matter gets more complicated when the labour forces are involved .It serves as a stark reminder of the sorry state of affairs of the system fabricated all around the Managements of the collieries. The workmen mostly hailing to illiteracy back ground are usually scared of stepping into the underground Mines due to safety hazards and unhealthy conditions, surrendering in and around the site despite best of safety mechanism/technique in place. Workers of the colliery have early adopted safety norms and other safety platforms since they are simple, clean and accurate. The prevailing culture of apathy that gives the situation to turn into a fatal accident in the absence of stringent deterrents tells the story something else.

There is nothing adverse report against the workman barring this one. Though alleged absentism had cost him employment. The punishment of dismissal imposed upon the workman for his alleged misconduct under the name of penalty on ground of absentism appears to be disproportionate and too harsh.

5. As far as imposition of penalty as dismissal from service is concerned, having regards to sufferings leading to the workman post dismissal, and taking into consideration of his apologetic stand, it is ordered that the workman concerned who lost bread and butter in the days of hardship be provided one more last opportunity by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation with no question of back wages whatsoever.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद** के पंचाट **(संदर्भ संख्या–04/2016)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/129/2015-आई.आर. (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 415 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad (Rf. No. 04 of 2016)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 27.02.2018.

[No. L-20012/129/2015-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Shri R. K. Saran, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

REFERENCE NO 04 OF 2016.

PARTIES : : The General Secretary,
Koyla Ispat Mazdoor Panchyat,
Chhatabad No.5, PO: Katrasgarh,
Dhanbad -828113

Vs.

The General Manager,
Katras Area of M/s BCCL,
PO : Katrasgarh, Dhanbad (Jharkhand) 828113.

Order No**.L-20012/129/2015-IR(CM-I) dt. 11.12.2015**

APPEARANCES :

On behalf of the workman/Union : Mr.B.B.Pandey, Ld.Advocate

On behalf of the Management : Mr.D.K.Verma , Ld.Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 8th Jan., 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No**. L-20012/129/2015-IR(CM-I) dt. 11.12.2015.**

SCHEDULE

Whether the action of the Management of Katras Area of M/s BCCL in dismissing Sri Raju Kumar Bhuia, M/Loader from the services vide order dated 29.08.2000 is fair and justified? If not, to what relief the concerned workman is entitled?

On receipt of the **L-20012/129/2015-IR (CM-I) dt. 11.12.2015** mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 04 of 2016 was registered on 04.01.2016. and, accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Advocates respectively appeared, and contested the case to the extent the case stands reserved for Award.

2. This Reference case as summarized in the WS by the Sponsoring Union that the workman concerned Sri Raju Kumar Bhuia a permanent employee of Ram Kanali Colliery of the M/s BCCL bearing Personal No,02951226 had been working as M/Loader .Since the workman concerned was charge sheeted citing absence from duty as the ground for misconduct .He submitted his explanation. The petitioner (workman) as a matter of facts contends that he fairly explained the reasons for his absence by stating that he did not have an intention nor desire to disobey the order of his higher authority or violate Company's rules and regulations but the reasons was purely personal and beyond the control of the workman over which he had a little choice . Contrary to it, the Management went ahead by conducting an departmental enquiry not in the line of the principle of natural justice .The said enquiry was conducted ex-parte and its report was a farce , as alleged by the workman concerned. The Management had all along been not certain as to the instant case of absentism was of which nature - minor or major punishment rather extracted the conclusion the punishment that totally disproportionate to the misconduct the workman committed .As such the order passed from 29.08.2000 based on the above proceedings and other matters is totally unfair and unjustified. With respect of the case under Reference the workman as stated he was on unauthorized absence only due to the fact that he had genuine constraints which prevented him from joining back to his duties .By making this written petition the workman want to establish that he is entitled to get lesser punishment than the order of the dismissal; which has been passed in the instant case caused tremendous sufferings. The workman has found himself on the verge of starvation that amounted to capital punishment in service arena In the instant case logics are not at all material in determining the proportionality of the punishment, inflicted upon the workman concerned as there is no vagueness in the claims of the workman as submission made in WS that the claims are bare facts and punishment of dismissal deserves to be set aside as there is not much in force in Management contention by way of dismissal order. So the alleged action of dismissal is unlawful, unfair and unjustified and thus liable to be set aside with reinstatement in service with continuity and back wages.

Further in its rejoinder the Sponsoring Union/petitioner categorically denied all the allegations raised by the Management by stating it all as baseless and far from facts and unfounded.

3 Whereas in contrast, Management argued by emphatically denial to all the allegations brought by the Sponsoring Union raised question over maintainability of the present Reference either in law or in fact with assertion that the Industrial Dispute is stale one, as the Union do not have locus standi as of now, to raise the dispute even after lapse fifteen years more from the date of dismissal by referring the 2A of the Industrial Dispute Act ,1947 as the dismissed employee can raise the I.D. in respect of dismissal within three years from the date of dismissal .As such the present Industrial Dispute is time barred as without offering of any explanation about undue delay of fifteen years so the Reference stands to be rejected summarily .

Further assertion by adding that the workman concerned was absenting himself from duty w.e.f. 19.04.1999 against which he was charge sheeted and for his past habitual absentism on 19.05.1999 , the aforesaid charge sheet was sent to the workman's native place at his permanent address through Registered post but surprisingly neither the letter returned back as undelivered nor did any information the Management receive about receipt of the letter by the workman. Going on further the Management appointed an Enquiry Officer ,who in turn, issued several notices to the workman concerned, despite this all the workman did not turn up before Enquiry Officer to participate in the enquiry restricting the Enquiry Officer with no option but to conduct the enquiry as ex-parte virtually in the absence of non-appearance of the workman ,by holding the workman guilty of the allegations levelled against him, and finally dismissed him from service for his proved misconduct .

Though the workman concerned filed a writ petition in the Hon'ble High Court by challenging the said dismissal order of the Management .The Hon'ble High Court, in turn, directed the Management to issue a Second Show Cause Notice together with concluded Enquiry Report .The Hon'ble High Court also directed to the workman concerned to submit his explanation to the said Show Cause Notice within fifteen days. Thereafter the Disciplinary Authority passed the reasonable order justifying decision of the dismissal imposed upon the workman concerned Raju Kumar Bhuia as no worthwhile explanation was forthcoming .The Management found no justification to interfere with the Enquiry Report as the workman concerned miserably failed to point out lapse or short coming in the Enquiry Report so as to disagree with .The representation against the dismissal is found to be devoid of any merit or substance ,hence in acceptance of the Departmental Enquiry Report penalty of dismissal from service has been inflicted upon the workman Shri Raju Kumar Bhuia .Thus neither there was any sort of violation of the principle of natural justice nor did it get mired at any stage as alleged by the petitioner/Union rather the alleged action for dismissal stands as fair, legal justified ,as claimed by the Management in its WS .

4. Incidents like this are not exceptional and often heard of such cases as far as Group of the Collieries under the Management of M/s BCCL, a part of the Coal India Ltd., cases like this definitely grab headlines since past couple of

years where numerous cases on same ground might have been pouring in slowly but steadily and matter gets more complicated when the labour forces are involved .It serves as a stark reminder of the sorry state of affairs of the system fabricated all around the Managements of the Collieries. The workmen mostly hailing to illiteracy back ground are usually scared of stepping into the underground Mines due to safety hazards and unhygienic conditions, prevailing in the vicinity of the collieries under the Management of the M/s BCCL despite best of safety mechanism/technique in place. The prevailing culture of apathy that gives the situation to turn into a fatal accident in the absence of stringent deterrents tells the story something else.

There is nothing adverse report against the workman barring this one. Though alleged absentism had cost him employment. The punishment of dismissal imposed upon the workman for his alleged misconduct under the name of penalty on ground of absentism appears to be disproportionate and too harsh.

5. As far as imposition of penalty as dismissal from service is concerned, having regards to sufferings leading to the workman post dismissal, and taking into consideration of his apologetic stand and to meet the ends of justice, the workman concerned who lost bread and butter in the days of hardship be provided one more last opportunity by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation subject to proper identification. So far back wages .it does not arise at all whatsoever.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 416.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद** के पंचाट **(संदर्भ संख्या–28/2015)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/22/2015-आई.आर. (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad (Rf. No. 28 of 2015)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/22/2015-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Shri R.K.Saran, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

REFERENCE NO 28 OF 2015.

PARTIES : : The General Secretary,
Koyla Ispat Mazdoor Panchyat,
Chhatabad No. 5, PO: Katrasgarh,
Dhanbad-828113

Vs.

The General Manager,

Katras Area of M/s BCCL,

PO: Sijua, Dhanbad (Jharkhand) 828121.

Order No.**L-20012/22/2015-IR(CM-I) dt. 27.04.2015**

APPEARANCES :

On behalf of the workman/Union : Mr.B.B.Pandey, Ld. Advocate

On behalf of the Management : Mr.D.K.Verma, Ld .Advocate

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State : Jharkhand Industry : Coal

Dated, Dhanbad, the 12th Jan., 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.**L-20012/22/2015-IR(CM-I) dt. 27.04.2015**

SCHEDULE

Whether the action of the Management of West Modidih Colliery under Katras Area of M/s BCCL in dismissing Sr Hari Lal Turi from the services vide letter dated 09.03.2006 is fair and justified? To what relief the concerned workman is entitled to?

On receipt of the Order No.**L-20012/22/2015-IR (CM-I) dt. 27.04.2015** mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 28 of 2015 was registered on 06.05.2015. and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Advocates respectively appeared, and contested the case to the extent the case stands reserved for Award.

2. The Reference as narrated & put forth the facts in WS by the Sponsoring Union/petitioner that workman concerned Hari lal Turi was a permanent employee of West Modidih Colliery under Katras Area of M/s BCCL, name of the Group of collieries exclusively based at Dhanbad. The workman concerned was charge sheeted on 21.07.2005 due to absence from duty against which the workman explained the genuine constraints which prevented him from joining back to his duties as the situation was compelling over which the workman had little choice to do but the Management did not consider his explanation being devoid of merits .Contrary to it, the Management went ahead by conducting an enquiry ignoring the principle of natural justice to which the workman declared the enquiry a farce one and its findings as perverse .Since the Management dismissed the workman from service of the Company dt.09.03.2006 , a move which the Sponsoring Union stated that the order is disproportionate to the misconduct the workman committed. The Petitioner contends that the workman had good reason for his absence from duty being ill health which the Management or Enquiry Officer did not consider .So the action of the Management in dismissing his service is quite disproportionate to the misconduct he committed rather sought reinstatement into service with back wages. It was found the extreme punishment of dismissal from service was too harsh and disproportionate to gravity of the charge the workman committed. Apart from it, the workman was thrown out of job and forced to sit idle with happening of this incident .

3. Whereas In contrast, by emphatically denial all the allegations brought out by the Sponsoring Union the Management argued by putting a question mark over maintainability of the Industrial Dispute either in law and facts since the Sponsoring Union has got no locus standi ,at least, as of now, to raise the Industrial Dispute under the I.D. Act after a gap of eight years as the workman concerned dismissed from services of the Company w.e.f. . 10.03.2006 and on that score, the Reference does not qualify to stand as ID rather liable to be rejected summarily referring the provision of 2A of the Industrial Dispute Act,1947 .Further assertion is that that the workman Hari Lal Turi bearing his personal no. 02989887 was an employee of West Modidih Colliery of the Katrs Area of M/s BCCL as M/Loader .The workman started absenting from his duty without permission and information of the Management w.e.f. 05.02.2005 against which he was charge sheeted by the Management on 21.07.2005 for commission of misconduct under clause 26.1.1. of the Certified Standing Order, an bye-laws ,in force in the Group of the Collieries under the

Management of the M/s BCCL . The workman submitted his reply which was not found up to the expectation leading to appointment of Enquiry Officer to conduct the enquiry so as to go to bottom of the facts to ascertain to what extent the workman committed misconduct apart from providing full, fair and reasonable opportunity to the workman to come out in his defence just on the line of the principle of the natural justice .The Enquiry Officer submitted his report holding therein the workman guilty of the charge of unauthorized absentism. The said enquiry was necessarily held in the presence of the workman concerned giving him an opportunity to rebut the allegation made against him as per the provision of the principle of natural justice. Thereafter the Disciplinary Authority issued 2nd Show Cause Notice together with copy of the concluded enquiry report .Finally the Disciplinary Authority considering the Enquiry Report and past record of the workman dismissed him from service of the Company for proved misconduct as his past three years attendances specially from 2002 to 2004 was very dismal amounting to gross negligence on the part of the workman that got deep rooted resulted in dismissal from service .So far the quantum of punishment by way of dismissal as given to the workman is fair and perfectly justified .There was no any sort of violation of the natural justice ,as claimed by the Union rather the enquiry was fair and justified .So long as fairness of the said Enquiry, if not convinced at all, the Management stands committed to adducing evidence afresh, as reiterated its claim in the WS on behalf of the Management.

In its rejoinder, the Management came out categorically denials of all the points of all the allegations levelled against them by stating the facts as baseless, far from facts and unfounded reiterating its stand for justifying the punitive action of dismissal, the workman deserved for.

4. Cases like this grab headlines since past couple of years where numerous cases on same ground might have been pouring in slowly but steadily and matter gets more complicated when the labour forces are involved .It serves as a stark reminder of the sorry state of affairs of the system fabricated all around the Managements of the collieries. The workmen mostly hailing to illiteracy back ground are usually scared of stepping into the underground Mines due to safety hazards and unhealthy conditions, surrendering in and around the site despite best of safety mechanism/technique in place. The prevailing culture of apathy that gives the situation to turn into a fatal accident in the absence of stringent deterrents tells the story something else.

There is nothing adverse report against the workman barring this one. Though alleged absentism had cost him employment. The punishment of dismissal imposed upon the workman for his alleged misconduct under the name of penalty on ground of absentism appears to be disproportionate and too harsh.

5. As far as imposition of penalty as dismissal from service is concerned, having regards to sufferings leading to the workman post dismissal, and taking into consideration of his apologetic stand, and to meet the natural justice, the workman concerned who lost bread and butter in the days of hardship be provided one more last opportunity for his survival by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation with no question of back wages whatsoever.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 417.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स टिस्को लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद** के पंचाट **(संदर्भ संख्या–38/2006)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/206/2005-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad (Rf. No. 38 of 2006)** as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Tisco Ltd. and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/206/2005-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Shri R.K.Saran,

Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947

REFERENCE NO 38 OF 2006

PARTIES : The Jt. Gen. Secretary,
Janta Mazdoor Sangh,
Shastri Nagar,At/,PO: Jamadoba,
Dhanbad. (Jharkhand).

Vs.

The General Manager,
M/s Tisco Ltd.,
PO: Jamadoba , Dhanbad.-826001

Order No**.L-20012/206/2005-IR(CM-I) dt.12.06.2006**

APPEARANCES :

On behalf of the workman/Union : : Mr. Balmiki Pd., Ld. Advocate.

On behalf of the Management : Mr. D.K.Verma, Ld. Advocate

State : Jharkhand **Industry : Coal**

Dated**,** Dhanbad, the, 1st Jan., 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No**.L-20012/206/2005-IR(CM-I) dt.12.06.2006.**

SCHEDULE

"Whether the action of the Management of 6/7 Pits Colliery of M/s TISCO in denying employment to Shri Goutam Ram, the dependent son of Late Ambika Ram on compassionate ground is justified? If not, to what relief is the said dependent entitled?"

On receipt of the Order No**.**L-20012/206/2005-IR(CM-I) dt.12.06.2006 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 38 of 2006 was registered on 21.07.2006/08.10.2007 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Counsels respectively appeared, and contested the case to the extent the case stands reserved.

2. The case as raised by the Sponsoring Union, all about denial of employment in r/o the petitioner –Goutam Ram, elder son of the deceased workman Late Ambika Ram who was Peon of 6/7 Pits Colliery under Tata Iron & Steel Co. Ltd,(Tisco) Management , prematurely expired on 12.10.2001 putting 29-year of continuous service .So long as his service track record, it remained intact and unblemished till his death .As per the provision in force among collieries under the Management of M/s Tisco and other Collieries under its Management covered under NCWA binding over the parties and also applicable in its sister collieries ,the wife of the deceased Smt. Lalmati represented before the Management to provide employment to her son Shri Goutam Ram in view of her husband premature death in terms of clause under National Coal Wages Agreement (NCWA).Though same has been acceded but kept in abeyance till date .So long as the question of providing employment be it in Tisco itself a or in Bhelatand Colliery or 6&7 Pit Colliery under the Management of Tisco, discriminatory tactics are more or less followed depending upon colliery to colliery as alleged by Sponsoring Union/Petitioner. The name of the dependent of the deceased worker had already been registered in the Employment Dependent Register (EDR) so refusal by the Management is totally illegal and unjustified .Therefore the claim of the petitioner is just and proper and must be considered on humanitarian ground as the alleged inaction of the Management put the family on the verge of starvation . Since Management's inaction in providing employment to the petitioner stands not only unjustified but arbitrary and bad in law also, seeking employment in favour of the dependent son - Goutam Ram with all other benefits on humanitarian ground setting aside the denial of the Management for employment . Whereas the whole object of granting dependent employment

is to enable the dependent of the deceased family to earn bread & butter and to come out from financial crisis ,who suffers on account of unexpected and untimely death of deceased servant .Therefore the order passed by the Management is illegal, arbitrary and malafide to victimize the kin of the deceased worker. Therefore, the Union claim is amply deserved. As a consequence, the Management may be directed to consider the claim of the petitioner of employment on humanitarian ground.

In its rejoinder, the Sponsoring Union categorically denied all the facts of the Management as incorrect and unfounded by sticking to its stand of all that the points raised are true with request to reject the prayer of the Management .

3 Whereas categorically denying all the allegations brought by the Sponsoring Union /petitioner OP/Management argued putting question mark over maintainable of Industrial Dispute either in law and facts as the Sponsoring Union has got no locus–standi to raise the dispute of the instant Reference of the Establishment as the Union namely - Janta Shramik Sangh is neither recognized nor in existence in any of the Establishments under the Management .As far as employment to the deceased worker is concerned, it is not automatic condition of the service , the Industrial Dispute can not be raised .The dependent son against whom the Sponsoring Union has raised the Industrial Dispute for employment has never been in employment under the Management of Tisco so question of any relationship in terms of Employer-employee does not exist at all. Management further pleading over the issue is that a pre-requisite condition does always exist for raising the Industrial Dispute with the Management that disputant must be an employee of the Management and that being the position, the Instant reference is not competent for adjudication rather the issue of the demand is a stale one as matter raised long after five years. Management pleading that Late Ambika Ram employed on 17.03.1972 with date of his birth 09.11.1947 and expired on 12.10.2001 after having put in about 29 years of service in the Company The procedure as spelt out in the Tata Steel for employment is that an employee desirous to get his dependents' name enrolled he must do so by applying for it for enrollment in the Employees Dependent Register (EDR) only after completion of 15 years of service in the Establishment and whenever vacancy arises name of dependent, as registered is to be considered for employment in the order of seniority. As for employment to the dependent of the deceased worker, Late Ambika Ram had never got enrolled the name of any dependent in the Employee Dependent Register (EDR) during his service tenure. There is no provision for providing employment in the Tata Steel after death of an employee. If go by the procedure; Late workman's dependent is not entitled for employment in the Company. Thereby dependent employment claim is hereby declared void and inoperative being unsustainable.

In its rejoinder the Management came out by emphatically denial of all allegations of the Union by stating these all as baseless ,incorrect and unfounded once again reiterating its stand that the petitioner is not entitled to any relief as the provision under which employment has been claimed is not applicable for Tata Steel rather the employment procedure exists in Tata Steel, is only applicable and, in wake of the said facts the disputant is not entitled for employment.

4. The resume of the fact as emerging from the record appears that short point in the issue of the instant Reference to be discussed is whether the applicant is entitled to get job in place of deceased father who was a workman under Tisco management .Both parties file W.S. and counter and also adduce evidence . The applicant submits that through he applied for job, the Management did not give him job though there is provision of law for that. On the other hand the Management Representative submits that if any workman dies, he has to apply to the concerned area for enrolling dependent name of the workman in the Employment Dependent Register (EDR).

5. Therefore it is ordered the petitioner /dependant son of the late workman to apply giving all details to be enrolled in the Employment Dependent Register(EDR).The deceased workman was a Sweeper, it is seen, that the Management, gave a reply to her that as no Sweeper post was available and regretted her claim. It is not proper. The applicant's dependent son be given the post of Sweeper/Peon or post of that Cadre wherever vacancy arises.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स बी.सी.सी.एल.** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद** के पंचाट **(संदर्भ संख्या–82/2012)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/2/2018 को प्राप्त हुआ था।

[सं. एल-20012/158/2011-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad (Rf. No. 82 of 2012)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. BCCL** and their workmen, which was received by the Central Government on 14.02.2018.

[No. L-20012/158/2011-IR (CM-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Shri R. K. Saran,

Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947

REFERENCE NO 82 OF 2012

PARTIES : : The Secretary,
Jharkhand Janta Mazdoor Union,
Vishwakarma Colony,Nutundih, PO: Jagjivan Nagar,Dhanbad 826003

Vs.

The General Manager,
Sijua Area of M/s. BCCL,
PO: Sijua, Dhanbad (Jharkhand) 828121.
Order No.**L-20012/158/2011-IR(CM-I) dt. 12.09.2012**

APPEARANCES :

On behalf of the workman/Union : Mr.P.Mandal , Union . Rep,

n behalf of the Management : Mr.D.K.Verma, Ld. Advocate

State : Jharkhand **Industry : Coal**

Dated, Dhanbad, the 15th Jan, 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No**. L-20012/158/2011-IR (CM-I) dt. 12.09.2012**

SCHEDULE

"Whether the action of the Management of Sendra Bansjora Colliery of M/s BCCL in not providing employment to Smt. Suga Devi, dependent wife of Late Baneshwar Manjhi under the provisions of NCWA is legal and justified? To what relief Smt. Suga Devi, dependant wife of Late Baneshwar Manjhi is entitled?"

On receipt of the Order No.L-20012/158/2011-IR (CM-I) dt. 12.09.2012 mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 82 of 2012 was registered on 01.10.2012. and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative/Ld. Advocate respectively appeared, and contested the case to the extent it stands reserved for Award.

2. This Reference case as explained in the WS that Late Baneshwar Manjhi was a permanent employee of Sendra Bansjra Colliery bearing personnel No. 002306942 had died in harness on 17.10.2005 due to serious illness. Soon after

death of her husband Smt. Suga Devi, wife of the deceased made an representation for grant of death benefits as per the provisions of National Coal Wages Agreement (NCWA) as the deceased had been very much entitled to grant of payments of Live Cover Scheme ,Benevolent Fund ,expenses for funeral apart from employment in lieu of her late husband .The Management did not provide any benefits to Smt Suga Devi in according with the provisions of NCWA rather harassed the poor lady by not providing employment despite several request made by her .So finding no alternative way, the Sponsored Union raise an Industrial Dispute. During the pendency of the conciliation proceedings the Management by its appearance through Ld. Counsel stated in written comments that Smt Suga Devi W/o the Deceased employee is not entitled for employment as the Late workman was dismissed from service vide order dated 19.10.2005 to which the Sponsoring Union objected questioning the circumstances under which the Management dismissed a dead person .Note worthy to mention here that the Late Baneshwar Majhi died on 17.10.2005 whereas the Management dismissed him from the service on 19.10.2005 .During the conciliation the Management came out with the assurance that if the applicant submits her application in proper format , her application would be considered in proper perspective while, the conciliation Officer as he could not bring about mediation between the parties gave a failure report. On the strength of Failure of the Conciliation, the Management instructed to Smt Suga Devi to submit application for employment in proper format. In compliance with the instructions as pointed out by the Management the application was submitted in proper format with relevant documents. Thereafter the Management issued another letter to Smt Suga Devi on 22.10.2012 for rectification of some omission in application .Having rectified the omissions, as pointed out by the Management, the applicant resubmitted. Thereafter the management referred the applicant to Medical Board for pre-medical examination and accordingly she appeared before the Medical Board and declared medically fit but in the meanwhile Ministry refereed the dispute to this Tribunal for adjudication vide notification under reference referred above. After reference from the Ministry, the Management send the Death Certificate of the deceased employee for verification with assurance that the applicant would be provided employment subject to verification of the Death Certificate. Not to it, the Management got verified all the documents from the Competent Authorities of Government of Jharkhand as well the antecedent of the application from Police. Finally the Management came out with assurance as soon as they get approval from the Competent Authority she will be provided employment ,a move that the Management till date neither confirmed nor did deny , thereby forcing the applicant to run from pillar to post for her survival in a bid to avoid the starvation in the days of hardships. Significantly the Management all along remained non-committal about providing employment to her as alleged inaction of the Management of providing employment to the petitioner despite repeated assurance is unjustified, illegal and sought suitable direction to provide employment to Smt. Suga Devi with full back wages from the date of application, as stated by the petitioner . Unfazed by the said the said assurance petitioner contends that the Management is not committed to stand by its words in terms of providing employment.

3, No compensation can be adequate nor can it be of any respite for the victim but since on account of failure of the Management in providing employment in lieu of her late husband , the Management to some extent duty bound to provide employment/compensation which may held in victim's rehabilitation. So the Management's assurance of providing employment bears no substance.

Though the Management's Counsel made appearances intermittently but did not file much awaited the written statement -cum -rejoinder without specifying any reasons whatsoever as fact materials surfaced on the record.

4. The question which now survives for consideration is whether relief by way of compensation to the petitioner in place of her Late husband who died in harness, should have been granted. Short point to be decided in this reference is whether the applicant is entitled to be appointed in place of her husband who died while in service. The applicant soon after his husband death applied for job, her application was scrutinized but it is seen that she is overage and she was advised to apply for monetary compensation. But she did not accept the compensatory and raise this dispute. During the hearings the applicant who is the wife of the deceased workman, admitted to accept for monetary compensation in lieu of employment, and give in writing to this effect. Considering the same, it is ordered, the applicant be given monetary compensation from the date of reference .

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद** के पंचाट **(संदर्भ संख्या–115/2006)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/02/2018 को प्राप्त हुआ था।

[सं. एल-11012/45/2003-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Rf. No. 115 of 2006)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. Air India Ltd.,** and their workmen, which was received by the Central Government on 01.02.2018.

[No. L-11012/45/2003-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present:

Pramod Kumar Chaturvedi,

Presiding Officer, CGIT-cum-Labour Court,

Ahmedabad,

Dated 10th January, 2018

Reference: (CGITA) No- 115/2006

1. The Airport Director,
   Air India Limited, Premchand House,
   172/1, High Court Way, Ashram Road,Ahmedabad
2. M/s. Global Airport and Ground Services Pvt. Ltd.,
   U 31-43, Samudra Office, C.G. Road, Sardar Patel Nagar Road,
   Ellisbridge Bridge, Ahmedabad – 380006
3. M/s. Philipson Corporation,
   392/2201, Shiv Shaktinagar, Chandkheda,
   Ahmedabad - 382424 —First Party

V/s

Shri Deepak Kumar RamlalAmbabatia,

Block No. 3 B, Sardarnagar,

Ahmedabad —Second Party

For the First Party : Shri D.C. Gandhi Associates

For the Second Party : Shri Raghuvir Mali

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-11012/45/2003–IR(C-I) dated 20.04.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Kya Shri Deepak Kumar Ramlal Ambabatia, Loader and Air Port Director Air India Limited and unke savindakaro, up-savindakaro M/s Global Air Port and Ground Services Pvt. Ltd. and M/s Philipson Corporation ke beech niyojak – karamkar kes ambandh hai?"

"Kya Karmachari Shri Deepak Kumar Ramlal Ambabatiaki M/s Air India Limited ke prabandhtantra se mang ki unhe sewa mein puneh sthapit kiya jaye and sabhi anuvarti labh diye jaye, uchit and nyaye sanghat hai?"

1. The reference dates back to 20.04.2006. After receiving the notices, the second party Deepak Kumar Ramlal Ambabatia submitted the statement of claim Ex. 5 on 08.01.2007 alleging that he was appointed / engaged by The Director Air Port, Air India Limited/ First Party, hereinafter referred to as "Air India" on 05.01.1997 on daily wage basis. He served the aforesaid first party for a year and three months till 31.08.1998. Initially, he was given an entry token for entering the Air Port. Later in July, 1997, he was given daily entry permit on monthly basis after getting police verification. He used to work for all the 30 days in a month and worked for 201 days in the year 1997 and 240 days in the year 1998 till 31.08.1998. Thus he became entitled to become workman of the first party. He used to work along with 25 other workmen as loader in the loading department of Air India. Air India was also having 20 other regular workmen in the loading department. Whatever he and other workmen perform the loading duty, was regulated

by Air India under the supervision of the Airport Authority of India. He was a regular worker as work was of the nature of continuity. He was paid wages at the rate of Rs. 60/- per day which was later increased to Rs. 70/- per day. He has further alleged that the Air India illegally entered into an agreement with M/s Global Airport and Ground Services Pvt. Ltd., as a contractor to provide casual labours including the second party workman under a camouflage and later entered into M/s. Philipson Corporation, a non-existing company for the said purpose. He and other workmen were used to perform their duties under the direct control of Air India but on 31.08.1998, the Air India without serving any notice or notice pay, removed him from service for no wrong and also retained the junior workmen. He has further alleged that it is the general practice of the Air India that every time it removed the older workmen and re-engaged new workmen, landing them into poverty and unemployment. Thus he has prayed in his statement of claim for reinstatement with back wages along with Rs. 10000/- as legal expenses and any other relief as the tribunal deems fit.

2. The first party in his written statement Ex. 9 denied all the averments made in the statement of claim submitting that by an order dated 22.08.2007 passed by the Ministry of Corporate Affairs, Government of India, New Delhi approving the scheme of amalgamation between Air India Limited and Indian Air Lines Limited with the National Aviation Company of India Limited and consequent upon the filing of the same with the registrar of company on 27.08.2007, aforesaid companies is to dissolved without being wound up with emergence of a new company National Aviation Company of India Limited, hereinafter referred to as "Air India". Air India in his written statement submitted that this workman was being engaged by the aforesaid contractors namely M/s. Global Airport and Ground Services Pvt. Ltd., and later M/s. Philipson Corporation, which were outsourcing company to provide the casual labours to Air India. Thus the workman was not having any master servant relationship with the Air India. He never served the Air India for 210 days in 1997 and 240 days in 1998 till the month of August. Truth is that, he was working under a contract with the aforesaid contractors. Thus he has no right to claim his reinstatement or regularisation with back wages.

3. The workman submitted number of documents vide list Ex. 12 and 22 and the first party Air India submitted number of documents vide list Ex. 13. Neither of the parties admitted the documents of their opposite party and all these documents are zerox copy which are not admissible under the Indian Evidence Act.

4. On the basis of the pleading, the following issues arise:

i. Whether the workman Deepak Kumar Ramlal Ambabatia was having master servant relationship with the Air India Limited and contractors M/s. Global Airport and Ground Services Pvt. Ltd. and later M/s. Philipson Corporation?

ii. Whether the workman Deepak Kumar Ramlal Ambabatia was entitled to be reinstated with back wages in the service of Air India Limited?

5. **Issue No. i & ii:** Both the issues are interrelated and will be decided together. The workman submitted his affidavit Ex. 11 as his examination-in-chief reiterating the averments made in the statement of claim but in his cross-examination, he failed to establish that he was ever appointed by Air India as its employee in the nature of casual labour. However, he has stated that he used to work under a camouflage contractors M/s. Global Airport and Ground Services Pvt. Ltd. and later M/s Philipson Corporation, who used to pay him the wages. The first party has also filed 3 photographs vide list Ex. 15 showing the workman running a shop in the name of Krishna Dabeli which has not been denied by the workman.

6. The first party examined Bhagwandas Manglani, Deputy Manager, Air India, by way of affidavit Ex. 21 stating that this workman was engaged by aforesaid contractors to the Air India for serving in the loading departments as a loader. He has never been appointed by Air India. He was simply outsourced employee and all the wages were paid by the contractors. Both the parties submitted their written arguments.

7. From the evidence of both the parties, it is crystal clear that the workman was serving the Air India under an outsourcing contract with the aforesaid contractors M/s. Global Airport and Ground Services Pvt. Ltd. and later M/s. Philipson Corporation. He was never appointed by the Air India as its employee. The argument that he was removed by Air India appointing the new workmen has no force because it is the discretion of the contractor whosoever enters into a contract with the Air India to have its own set of workmen. It is also an established law that Air India is a Public Sector Undertaking of Government of India with in the definition of State under Article 13 of the Constitution of India, therefore, is governed by the statutory rules regarding recruitments, therefore, Air India cannot be ordered by this tribunal to reinstate and regularised in service of the Air India.

8. The first party has referred Surendranagar District Panchayat V/s Gangaben Laljibhai and others, 2006-III-LLJ SC Page 48 wherein the apex court has held that it is the burden of the workman to prove that he served the employer for a continuous period of 240 days. He has further referred Glasstech Industries (India) Pvt. Ltd., V/s the workman, represented by Maharashtra General Kamdar Union, 2013 (1) LLN 119 (Bom.) wherein the Bombay High Court has held that the burden lies on the workman to prove that he was the direct employ of the alleged employer. Similar view was expressed in Leelaben Parmar V/s Physical Research Laboratory, 2011 II CLR 39.

9. From the aforesaid discussions, the workman has failed to establish that the outsourcing contract with the aforesaid contractors M/s. Global Airport and Ground Services Pvt. Ltd. and later M/s. Philipson Corporation was sham and camouflage and he was regularly appointed by Air India as per its recruitment rules, therefore, both the issues are decided in negative and against the workman and the workman cannot be given any relief in this reference.

10. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मैसर्स ओ.एन.जी.सी. लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद** के पंचाट **(संदर्भ संख्या–123/2004)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/02/2018 को प्राप्त हुआ था।

[सं. एल-30012/116/1997-आई.आर. (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 28th February, 2018

S.O. 420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the **Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Rf. No. 123 of 2004)** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the management of M/s. ONGC Ltd.,** and their workmen, which was received by the Central Government on 01.02.2018.

[No. L-30012/116/1997-IR (C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present:

Pramod Kumar Chaturvedi,

Presiding Officer, CGIT-cum-Labour Court,

Ahmedabad,

Dated 24th January, 2018

Reference: (CGITA) No. 123/2004

The Group General Manager (P),

ONGC Ltd., Mehsana,

Mehsana Project,

Mehsana (Gujarat) - 384002 …First Party

V/s

The Secretary,

ONGC Labour Union,

8, Samarpan Shopping Complex, Highway Road,

Mehsana (Gujarat)– 384002 …Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri N.K. Trivedi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/116/97–IR(C-I) dated 09.11.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether Shri Jayant D. Jadhav, was a workman or a contractor with ONGC, Mehsana for the period from 11.09.1986 to 01.03.1995? If Shri Jayant D. Jadhav was a workman then whether his termination w.e.f. 01.03.1995 is legal and justified? If no, then to what relief, he is entitled?"

1. The reference dates back to 09.11.1998.Both the parties were served vide notice Ex. 2. The second party workman Jayant D. Jadhav submitted his statement of claim Ex. 6 alleging that the first party Oil and Natural Gas Corporation, hereinafter referred to as "ONGC" was established under Section 3 of ONGC Act, 1959 (Act No. 43 of 1959) within the meaning of Article 12 of the Constitution of India, having its headquarter at Tel Bhawan, Dehradun which was registered as ONGC Limited. The main function of ONGC is carrying out of geological and geo-physical service for exploration of petrol, for carrying out drilling and other prospecting operations to prove and estimate the reserves of petroleum, to undertake, encourage and promote the production of petroleum from such reserves, for the transport and disposal of natural gas, to undertake, encourage and promote geological, chemical and other scientific investigations, to perform other functions which are supplemental, incidental or consequential to any of the aforesaid functions or which may be prescribed by the Central Government and directed to them through Ministry of Petroleum and Natural Gas from time to time. He has further alleged that ONGC is the employer within the meaning of Industrial Dispute Act, 1947 and owner within the meaning of Section 2 (C & I) of the Mines Act, 1952. He was appointed by the ONGC in his computer section on 11.09.1986 to operate, maintain and repair of the air conditioning units of ONGC for its smooth running of the computer section which was established in the year 1986 when the computers were installed therein. He served the ONGC continuously till 28.02.1995 and was terminated on 01.03.1995. ONGC invented a noble method while engaging him telling that if he will continue in job with ONGC, he will have to enter into an agreement offering bids/quotations before entering into an agreement. He entered into an agreement with the ONGC sometimes near to 23.01.1987. He has further alleged that ONGC did not follow the proper procedure of inviting bids or quotations while entering into an agreement. Initially, he was paid Rs. 1000/- per month for such service. He has further alleged that he worked full time for more than 240 days in each year in the direct control and supervision of the ONGC, therefore, his termination on 01.03.1995 was unjust and unlawful on the ground that the said work was of perennial nature and he has been serving as a full time worker, therefore, engaging a person on a fixed amount, is violative of Section 25 G of the Industrial Dispute Act and unfair labour practice for escaping the provisions of Employees Provident Fund Act and also escaping the obligations of regularising a workman who served the ONGC for more than 240 days in each year. Thus he has prayed that his termination from service be declared unlawful and also prayed for reinstatement in service.

2. The first party ONGC submitted the written statement Ex. 6 partly admitting the facts that the second party workman was engaged as a contractor to perform the duty of maintenance of air conditioning unit of the computer section of ONGC. Thus he was a contractor and cannot be said to be a workman as defined in the Section 2 S of the Industrial Dispute Act, therefore, no industrial dispute can be raised in the matter. The ONGC has denied the facts of engaging the second party as workman on a fix pay of Rs. 1000/- per month since his alleged appointment and termination. All the rest of the averments made in the statement of claim are denied by the first party. The reference is also barred by delay and latches. The real facts are that ONGC contracted M/s Jadhav Refrigeration Service, Mehsana as per the agreement entered into the ONGC and the alleged second party workman. Said agreement was extendable on mutual consent basis from time to time. He was never appointed as a workman by the ONGC, therefore, there exist no relationship of master and servant between them and the reference is liable to be rejected.

3. The second party submitted documents vide list Ex. 7 concerning certified standing orders of contingent employees of the ONGC and various circular/office orders/letters of ONGC besides a copy of award of Central Government Industrial Tribunal, Ahmedabad in Reference (ITC) No. 35/1987.

4. The ONGC has filed the copy of the alleged agreement between ONGC and M/s Jadhav Refrigeration Service, Mehsana.

5. On the basis of the pleadings, the following issues arise:

I. Whether Shri Jayant D. Jadhav, was a workman or a contractor with ONGC, Mehsana for the period from 11.09.1986 to 01.03.1995?

II. Whether Shri Jayant D. Jadhav was a workman and his termination w.e.f. 01.03.1995 is legal and justified?

III. If no, to what relief, if any,the second party is entitled?

6. Issue No. I, II &III: Both these issues are interrelated and decided together. The burden of prove of these issues was on the second party who has submitted the affidavit Ex. 17 reiterating the averments made in the statement of claim and in his cross-examination, he has stated that no advertisement for vacancy of the post which he alleged to have hold, was advertised by the ONGC. He has never been issued any appointment letter. He has also stated that he himself is a contractor and entered into a contract with ONGC to maintain the refrigeration unit at Mehsana. The said contract of maintenance of refrigeration unit of ONGC expired on 28.02.1995. He has been residing in Nehrunagar Colony of Ahmedabad since childhood and his date of birth is 04.10.1957. Though ONGC has not examined any witness but the second party has admitted that he was a contractor and entered into a contract with the ONGC to maintain the refrigeration unit of computer section of ONGC, thus his admission itself is indicative and established that he cannot be treated as a workman under Section 2 S of the Industrial Dispute Act, therefore, no dispute can be raised under Section 2 K of the Industrial Dispute Act. Secondly, his contract expired on 28.02.1995 and raised the dispute sometimes in 1998. Thus the dispute suffers with delay and latches. Third, the ONGC is a state being the instrumentality of the Government of India; therefore, no appointment can be made without following the due procedure of appointment of service and the second party himself admitted that no advertisement of vacancy was made and due procedure was not followed. Fourth, the second party in his statement on oath has admitted that his date of birth is 04.10.1957. Thus he has passed the superannuation age. Thus on the basis of the aforesaid discussions, the industrial dispute raised by the second party was not justified. He was a contractor and not a workman or employee. Thus the reference has no force and liable to be dismissed against the second party.The second party is also not entitled to get any relief.

7. Thus the reference is disposed of with the observation as under:"Shri Jayant D. Jadhav, was not a workman. He was a contractor with ONGC, Mehsana for the period from 11.09.1986 to 01.03.1995.As Shri Jayant D. Jadhav was not a workman therefore, his termination w.e.f. 01.03.1995 was not made rather his services as contractor was ceased w.e.f. 28.02.1995. Thus no relief can be granted."

8. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 421.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **स्टेशन निदेशक, प्रसारभारती ब्रॉडकास्टिंग कार्पोरेशन इंडिया (एआईआर), यवतमल (एमएस)** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नागपुर,** के पंचाट **(CGIT/NGP/14/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.1.2018 को प्राप्त हुआ था।

[सं. एल-40012/12/2013-आई.आर. (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/14/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Nagpur** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the Station Director, Prasarbharti Broadcasting Corp. India (AIR), Yavatmal (MS)** and their workmen, which was received by the Central Government on 12.01.2018.

[No. L-40012/12/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/14/2013 Date: 20.12.2017.

Party No.1 : The Station Director,
Prasarbharti Broadcasting Corp. India (AIR)
Akashwani,
Yavatmal(MS)

Versus

Party No.2 : Shri Himmat Uttamrao Kute
Chamdiya Nagar,
Yavatmal (MS).

AWARD

(Dated: 20th December, 2017)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of All India Radio and their workman, Shri Himmat Kute, for adjudication, as per letter **No.L-40012/12/2013-IR (DU) dated 22.04.2013,** with the following schedule:-

> **"Whether the action of the management of AIR, Yavatmal (MS) in terminating services of Shri Himmat Uttamrao Kute and denying him to a suitable post in AIR, Yavatmal is legal and justified? To what relief the workman is entitled to?"**

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Himmat Kute, ('the workman" in short), filed the statement of claim and the management of All India Radio, ("Party No. 1" in short) filed their written statement.

3. Workman in his statement of claim stated that his initial appointment was made by party no.1 as a labourer on vacant post and he working continuously with party no.1 without any gap in service. In 1990 he was working for sweeping the office, attending the officers, serving the tea and water during the office hours. Initially he was paid Rs.154/- per day towards wages. On 20.10.2011 this amount raises up to 4000/- per month. The payment of wages was made on the basis of voucher not on muster roll. Despite working for more than 11 years management play unfair labour practice i.e. preparing vouchers for his payment in the name of other persons and compel to party no.2 workman signed in the name of another person with the alterim motive to avoid the benefit of permanency.

According to the workman he being a less educated person and with the fear in his mind of termination of his services, he followed the illegal directions of party no.1. He also requested the management to make him permanent but as a result his service came to terminated from 20.10.2011 without following the mandatory provisions of section 25-F, 25-G of I.D. Act. No notice was served to him. The retrenchment compensation was also not offered to him. So according to the workman his termination is illegal, arbitrary and contrary to the provision of law and he is entitled to be reinstated in service with full back wages in continuity.

4. The party no.1 filed written statement by denying measure important facts. According to the management the workman was engaged as contract labour in piecemeal basis for 11 to 12 months as Mali, Gardening and General cleaning of office for the amount mentioned therein. It was denied that he was worked for continuously. It was admitted that workman was performing the work of sweeping office, serving tea and water during the office hours. It is also admitted that the work was available in all time only during the office hours. It is also admitted that initially he was paid Rs. 154/- per day, thereafter, wages were increased from time to time on basis of list of latest rate of wages but it was denied that on the last date of termination of his service his wages was 4000/- per month. It was also admitted that party no. 1 pay the wages to the workman on vouchers not paying him on muster roll, despite working for more than 11 years, which amounts to unfair labour practice on behalf of party no.1. It was also admitted that party no.1 extracting work from the workman himself but preparing the vouchers for his payment in the name of other person, but it was denied by party no.1 compelling the workman to sign in the name of another person other than him with a ulterior motive to avoid him the benefit of permanency.

Party no.1 denied that the workman approached them that he was working continuously since past 11 years and not made permanent. It is also denied that no heed was paid to request of workman. It is also denied that party no.1 got annoyed with workman and as a result his services came to be terminated w.e.f. 20.10.2011 without following the mandatory provision of section 25-F and 25-G of I.D. Act. According to the management no notice or retrenchment

compensation is required to workman. It is also denied that his termination was illegal, arbitrary and contrary to the provisions of law. It is also denied that after termination of the services party no.1 has engaged another person to perform work of the workman. The question of having preferential right of the workman over the fresh appointee to perform the work prior to his termination does not arise. So party no.1 pray that as direction of the Hon'ble High Court this Tribunal any order as deem fit in the circumstances of the case and in interest of justice.

5. Workman filed rejoinder by stating that party no.1 gave the appointment of temporary status of mazdoor and station director had strongly recommended his name for engaging by granting T.S.M. status. Workman also asserted that he does work continuously for 11 years. According to the workman management admitted that all time work is available. According to him management without complying the due procedure of law terminated his services on 20.11.2011. He also prayed that management to reinstate his service from date on which his service was illegally terminated with full back wages and other consequential benefits.

6. Besides placing reliance on documentary evidence, both the parties led oral evidence to substantiate their respective stands. The workman examined himself as a witness in support of his case. In his examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the claim.

7. One Shri Harish Ramakant Wasnik an officer of the party no.1 has been examined as a witness on behalf of the party no.1. The evidence of this witness is also in the line of the stands taken in the written statement by party no.1.

8. Both the parties filed their written notes of argument.

9. Now I will discuss the legal facts of the case.

In support of the submissions, the learned advocate for the workman placed reliance on the decisions reported in Sandhya Vs. State of Maharashtra (SC) 2014, III CLR-17, Rajasthan State Sahakari Vs. Atal Bihari Bharadwaj (Rajasthan High Court 2017-IIICLR-480, Management of Dy. Director Vs. Chaitanya Sahani (Orissa High Court) and Resident Engr., RSRDC Vs. Judge Labour Court, Jaipur

(i) Whenever the termination of service of an employee/workman who has worked for a long period, is held to be illegal by the competent court/tribunal, he is entitled to not only the relief of reinstatement in service but also to regularisation in service, as per the Government Scheme or Resolution as the case may be.

(ii) It is a case of continuous employment and not one under different contracts but when his services were lastly dispensed with from 30.09.1995, he had admittedly worked for more than 240 days continuously in the preceding calendar year before his services were dispensed with.

Thus the court deems it appropriate that respondent apart from relief of reinstatement, is entitled to back wages to the extent of 25% for all these years.

While granting relief to the parties concerned the adjudicator has always consider the length of service put in by the workman, his current age as well as the long period the litigation is pending, financial soundness of the employer, etc.

(iii) It is settled principle that when competent judicial/quasi judicial authority, is of the opinion that termination of service of the workman, is illegal, the employee/workman is entitled to relief of reinstatement in service, or reasonable amount of compensation, considering the length of service he had put in, age of the workman, financial condition of the employer, etc.

10. Now I want to discuss the argument submitted by the advocate for the workman on basis of facts and evidence. He also pointed out some admission made by the management in his written statement and evidence. Now I want to point out these admissions:-

i) Party no.1 in his written statement admitted that the workman was engaged as contract labour on piecemeal basis for eleven to twelve months for the work of Mali, Gardening and General cleaning of the office.

ii) The workman was performing the work of serving the Tea and water to officer and staff during office hours. This work was available for all the time with party no.1. The party no.1 use to revise the rate of wages after every six months. The party no.1 extracted the work from the workman but prepare the vouchers for his payment in the name of other person.

Workman in his court statement admitted in para 7 that he was initially paid Rs. 154/- per day towards his wages. His name was not registered in the employment exchange. He had not filed any appointment letter which show that his engagement was against any permanent post. He did not file any document to show that he was getting Rs. 4000/- per month as wages. He also admitted that he was paid his wages on voucher basis. He also admitted that he did not file any document to show that he worked continuously for 21 years.

11. Now coming on document part:-

Document W-I dated 11.10.2004, W-II dated 07.12.2004 and W-III dated 07.05.2004, these are letters written by station officer Prasar Bharti Yavatmal to Director General All India Radio, New Delhi for workman appointment for temporary status mazdoor at AIR Yavatmal. Document W-VIII is written by Director General of All India Radio on 17.06.2012 regarding the workman's representation against his termination from services is intimated by this letter workman directly.

12. Management witness Mr. Harish Wasnik stated that the workman was working in this department from 1990 to 20.10.2011 as casual labour. He was not aware that workman did or did not work continuously for 240 days in each calendar year and what was the mode of payment. He was also not aware of any other appointed, in the place of workman in the department. On reading of his court statement it shows that he gave his statement on the basis of documents i.e. he don't have any personal knowledge.

13. On perusal of the records in my opinion the established facts are mentioned below:-

a) Management admitted that workman worked as casual labourer from 1990 to 20.10.2011 but he does not proved that he worked as full time worker for continuous 240 days in a calendar year.

b) Workman does not produce any document which shows his appointment and termination. In my opinion the burden of proof on these facts lies on the workman.

c) It is also disputed that payment of wages are on voucher or on muster roll. It is also admitted by the party no.2 that some time payment was made in the name of other person to the workman. It is also not prove that somebody was working in his place which indicates that there is clear and permanent vacancy.

d) Workman did not prove that he worked for 20 years continuously as a temporary or permanent worker. It is also not proved that there is a clear vacancy upon which he was appointed. It is also not proved that he apply for this post on advertisement basis or through employment exchange. He also does not prove that some recruitment procedure was followed or reservation quota was followed.

14. Workman advocate admitted that on 07.12.2018 the workman's age will be 60 years, but proof of the age is genuine in my opinion which was submitted by him during the argument marked C-1.

In case law--- Delhi Transport Corp. vs. Ombir Singh 2017 LLR 252, Hon'ble Lordship held that "Where principles of natural justice are not being complied with, then in such cases, compensation ought to be granted even if termination of service is found to be valid". On the basis of principle laid down in Engineering Laghu Udhyog Employees Union vs Judge, Labour Court and Industrial Tribunal & others – (2003) 12 SCC 1 in which it was held that:- "no difference whether the matter comes before the tribunal for approval under S.33 or on a reference under S.10 of the Industrial Dispute Act, 1947. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the entire case would be open before the tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper." "A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper." The employer, thus, has got a right to adduce evidence before the Tribunal justifying its action, even where no domestic inquiry whatsoever has been held.

It will be open to the Tribunal to pay compensation even in a case where ultimately charges are proved, despite holding that the order of termination is valid for the reason that principles of natural justice have not complied with.

In the case law:- Management of Deputy Director, Agriculture, Kandhamal Range, Phulbani Vs. Chaitanya Sahani 2017 II CLR 841 it was held that:- "It is settled that in case of temporary or daily wagers, the order for reinstatement in service can only be passed in exceptional circumstances and the normal rule is to compensate the workman by way of making payment of lump sum compensation in case of violation of Section 25-F of the Industrial Disputes Act, 1947."

15. Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that law is well settled that where principles of natural justice were not complied with then in such cases compensation out to be granted because termination of the services in my opinion is valid.

16. In view of the discussion made above and the materials on record, it is found that there is no scope to interfere with the order punishment of dismissal from services past against the workman. Hence, it is ordered:-

ORDER

The action of the management of AIR, Yavatmal (MS) in terminating services of Shri Himmat Uttamrao Kute and denying him to a suitable post in AIR, Yavatmal is legal and justified. But due to lack of procedure in termination from services and the mode of payment adopted to the workman the workman is entitled for Lumpsum compensation of Rs. 1,00,000 (Rupees One lakh only) from party no.1 in lieu of reinstatement which is payable within one month from the publication of this award in official gazette, failing

which, the amount due to the workman will carry interest of 6% per annum from the date of due to the workman to the date of actual payment of the amount to the workman. The workman is not entitled for any other relief.

SHYAM SUNDAR GARG, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **मुख्य स्टाफ अधिकारी, पश्चिमी नौसेना कमान, मुंबई और अन्य के प्रबंधन** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. II, मुंबई,** के पंचाट **(संदर्भ संख्या 02/2016)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.2.2018 को प्राप्त हुआ था।

[सं. एल-14011/22/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 02/2016)** of the **Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the Management of Chief Staff Officer, Western Naval Command, Mumbai & Other** and their workmen, which was received by the Central Government on 13.02.2018.

[No. L-14011/22/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

M. V. Deshpande

Presiding Officer

REFERENCE NO.CGIT-2/2 of 2016

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

(1) CHIEF STAFF OFFICER (P&A) WESTERN NAVAL COMMAND

(2) THE CCPO, HQ, WESTERN NAVAL COMMAND

The Chief Staff Officer (Personnel & Admn.),

Western Naval Command, Headquarters,

Shoorji Vallabhdas Road,

Ballard Estate,

Mumbai – 400 038.

The CCPO, Headquarters,

Western Naval Command, Headquarters,

Shoorji Vallabhdas Road, Ballard Estate,

Mumbai – 400 038.

AND

THEIR WORKMEN

The Secretary,
Rashtriya Raksha Karamchari Sangh,
06-C, Islami Building, Dhobiwada Road,
Jacob Circle, Mahalaxmi [E],
Mumbai – 400 011.

APPEARANCES:

FOR THE EMPLOYER	:	Mr. A.K. Roy, Advocate
FOR THE WORKMEN	:	Mr. Ombir Yadav, Representative

Mumbai, dated the 8th December, 2017

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-14011/22/2015 – IR (DU) dated 29.12.2015. The terms of reference given in the schedule are as follows :

"Whether letter No. CPT (JCM)/3543/BMPS dated 08.08.2014 issued by Smt. R.A. Sehgal, PD, DCPS, Integrated Headquarters of Ministry of Defence (Navy), and the action of the management of HQ Western Naval Command Mumbai in dealing with the faction of Rashtriya Raksha Karamchari Sangh led by Shri Ravindra Yadav for all official purposes is amounting to violation of Section 25T read with Clause 2 (a) and Clause 3 of Fifth Schedule of ID Act, 1947 ? If so, what relief the Rashtriya Raksha Karamchari Sangh faction led by Shri Ombir Yadav is entitled to ?"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. Second party union filed statement of claim Ex.4. It is the case of the second party union that Rashtriya Raksha Karamchari Sangh hereinafter referred as RRKS is a trade union registered under Indian Trade Unions Act, 1926 with the Registrar of Trade Union on 23.5.2000. The constitution of the said union was also approved by the Registrar. As per the said constitution any person who is employed in the units of Headquarter of Western Naval Command, Mumbai and who has attended the age of 18 years shall be entitled to become an ordinary member. In the said constitution there is provision of granting the Honorary membership to the member who is not eligible to become the ordinary member and the maximum number of Honorary member shall not exceed 4. There is provision under the said constitution that the union shall have President, Vice President, one General Secretary, one Joint Secretary, 5 Secretaries, one Treasurer and 12 Organising Secretaries. As per constitution, union shall have its managing committee of members upto 100 including office bearers who are elected with simple majority in the Annual General Meeting of the union for the 2 years and the entire affairs of the union will be conducted by the Managing Committee. As per the provisions, General Body Meeting has to be called by the President or General Secretary of the union. If any office bearers or members of the Managing Committee is to be removed, he is to be removed in general meeting by simple majority if it is found that he has committed any fraud or acted against the interest of the union.

4. It is also the case of the union that Ombir Yadav who is founder President of the union issued a notice calling a special meeting of the Managing Committee on 28.3.14 and agenda of the said special meeting was to decide the continuation of the affiliation of Bhartiya Mazdoor Sangh to which the RRKS union was affiliated earlier. In the said meeting dated 28.3.14, Ravindra Yadav, A. Raturi and 5 others had entered forcefully and made lot of shouting and behaved in indecent manner and therefore the President decided to adjourn the meeting and it was decided to hold an annual general meeting on 15.4.14. Accordingly, notice was given on 31.3.14 along with agenda of the said meeting. One of the agenda of the said meeting was to take action against the members against whom show cause notice was issued asking their explanation as to why the action should not be taken against them for committing anti-union activities in the meeting held on 28.3.14. In the meeting on 15.4.14 Resolution No.1 was passed whereby Shri Jogendra Pratap Singh, General Secretary, Yogendra Kumar, Vice President , Jayprakash Kadian and Shiv Kumar Singh were expelled. Thereafter RRKS union by its letter dt. 16.4.14 informed the Flag Officer Commanding – in – chief, WNC, Mumbai about the decision in the said general meeting. The registrar of the trade union was also informed / intimated regarding the change of office members of the union and decision taken in the annual general meeting held on 15.4.14.

5. It is also the case of the union that the Registrar of the trade union accepted the resolution passed on 15.4.14 by General body meeting and accordingly amended the constitution of RRKS. However, on 29.4.14, meeting was called

by Shri Jogendra Pratap Singh and in the said meeting Shri Dyaneshwar Ragunath Shinde, Uttam Singh, Sayed Sajjad Haider Taqvi and Sukesh Kumar Singh were removed as office bearers of the union. So according to the second party union, Shri Jogendra Pratap Singh was already expelled from the primary membership as per Resolution in General Body meeting dt. 14.4.14 and he has no legal right to hold or call any annual general meeting in the name of RRKS. Even General Secretary of the RRKS wrote letter dt. 9.6.14 to the Registrar of the Trade union explaining entire constitutional process of expulsion of Shri Jogendra Pratap Singh and others from the union and the Registrar of the Trade union examined the issues in detail and have decided to accord requisite amendment in constitution in accordance with the proceedings of annual general meeting of the union held on 15.4.14.

6. It is alleged by the union that the management despite of the situation issued a letter No. CPT[JCM]/3543/BPMS dated 8.8.14 addressed to the Flag Officer Commanding – in – chief for CSO [P&A], Head quarter, WNC, Mumbai authorizing the removed office bearers for functioning of RRSK without having any role and jurisdiction which is also violation of Trade Unions Act. The management thereby extended undue favour for dealing with the faction of RRKS led by Ravindray Yadav for all official purposes vide letter dt. 25.8.14 and it amounts to unfair labour practices under section 25 (T) read with section 2 [ra] and clause 2 and clause 3 of the Fifth Schedule of I.D. Act. The said letter is illegal and contrary to law. Second party union therefore wrote letter dt. 22.8.14 to the management and protested the letter issued by the management on 8.8.14. Again union has sent letter dt. 28.8.14 asking the management to withdraw the letter written by them and again made a request to the management by letter dt. 27.11.14 to withdraw the said letter. However, the management of the first party did not take cognizance of the request of the union. Union therefore raised the industrial dispute before ALC who submitted the report to appropriate government for necessary action stating that it is an industrial dispute under section 2 [k] of I.D. Act. Hence this reference.

7. First party management resisted the claim by filing written statement Ex.7. It is the contention of the management that in 2014 dispute has emerged among the members and office bearers of the union and thereby the second party union is bifurcated into two factions. First group seems to be represented by Shri Ombir Yadav and others and second group seems to be represented by Shri Ravindra Yadav and others. The reference has been made at the instance of first group led by Shri Ombir Yadav and so far first party is concerned, it is neutral party in this dispute.

8. It is also a case of the management that it has received a letter from both the factions making various allegations against each other. Therefore, the matter was first examined at the Mumbai head quarter and then forwarded to higher authorities at Integrated HQ, Ministry of Defence [Navy], New Delhi with all the letters received by the management from the factions. By its letter No. CPT[JCM]/3543/ BPMS dated 8.8.14, Integrated HQ, Ministry of Defence [Navy] directed that in accordance with the provisions, it was decided to accord concurrence to the faction led by Shri Ravindra Yadav as such the said faction was to be dealt with in future for all official purposes concerning the workmen. The said decision was taken in accordance with the 'dispute resolution guidelines' previously adopted by 3 trade federations namely All India Defence Employees Federation, INDWF & BPNS in a joint conference with defence authorities. All these guidelines were circulated in the letter from adjutant General's branch, IHQ, MoD [Army]. It is thus contention of the management that the reference is contrary to the directions of the Hon'ble Bombay High Court in civil revision application No. 69 of 2015 and therefore it is liable to be dismissed for non-joinder of necessary parties.

9. It is also a contention of the first party that the decision of the first party management to accord concurrence to faction led by Shri Ravindra Yadav for dealing with all purposes concerning labour issues is based on the directions of the higher authority namely Integrated HQ, Ministry of Defence [Navy] and there is no violation of the provisions of the trade union act or any labour law. No undue favour has been granted to the office bearers or the members of RRSK or any faction of the union. No unfair labour practices have been knowingly adopted by the first party management. Management has never interfered in the business of trade unions act and acted only as per the advice and guidelines of respective competent authorities and as such the tribunal has no jurisdiction to entertain the reference. It has thus sought the dismissal of the reference.

10. Following issues are framed at Ex.13. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether the letter No. CPT[JCM]/ 3543/BPMS dated 8th August 2014 issued by Smt. R.A. Sehgal, PD, DCPS, Integrated Headquarters of Ministry of Defence (Navy), and the action of the management of Headquarters, Western Naval Command, Mumbai in dealing with the faction of Rashtriya Raksha Karamchari Sangh led by Shri Ravindra Yadav for all official purposes is amounting to violation of Section 25 (T) read with Clauses 2 (a) and 3 of Fifth Schedule of Industrial Disputes Act, 1947 ?	Yes
2.	Whether reference is bad in law for non-joinder of necessary parties?	No
3.	What relief the Rashtriya Raksha Karamchari Sangh faction led by Shri Ombir Yadav is entitled to ?	As per final order
4.	What Order ?	As per final order

Reasons

Issue No.1.

11. So far contention go, it is the case of the second party union that during the Annual General Body Meeting of the union held by them on 15.4.14, they have removed some of the office bearers of the union and changed their office address as well as dis-affiliated from BMS Federation and communicated the same to Chief Personnel, Integrated Head quarters of Ministry of Defence [Navy]. In view of that, it is the case of the first party that the matter was examined by Mumbai Head quarters of Western Naval Command and forwarded to Integrated Head quarters of Ministry of Defence, New Delhi seeking necessary directions in the matter in particular regarding recognition of one of the factions because according to the first party due to dispute within the union there were two factions and the first party has received letter from both the factions of union on various allegations against each other. It is thus contention of the first party i.e. Integrated Head quarters of Ministry of Defence [Navy] vide letter No. CPT [JCM]/3543/ BPMS dated 8.8.2014 has communicated that in accordance of extent provisions it was decided to accord concurrence to the faction led by Shri Ravindra Yadav, RRKS which is backed by BPMS Federation who may dealt with in future for all purposes and this communication was conveyed in consonance with dispute regulation, guidelines adopted by AIDEF, INDWF and BPMS as brought out in IHQ of MOD[Army], AG's branch letter.

12. The question is whether the first party has authority / power to take such decisions authorizing one faction of the group of union to deal with in future for all official purposes or otherwise it is a violation of section 25 (T) read with classes 2 (a) and 3 of 5th Schedule of I.D. Act, 1947.

13. So far legal position is concerned, Registrar under the provisions of Trade Unions Act, 1926 is the authority charged with the duty of administering the provisions of the act. Power of the Registrar in this regard are dealt with in section 28 of the act which relates to filing of returns. Under section 28(i), a general statement has to be submitted annually to the Registrar duly audited for all receipts and expenditures of every registered trade union for the relevant period. Under sub section 2 together with general statement, the Registrar has to inform through a statement of all changes of office bearers made by the trade unions during the year to which the general statement refers. Sub section (2) of section 28 of the act provides as follows.

"**(2)** Together with the general statement there shall be sent to the Registrar a statement showing all changes of office bearers made by the Trade Union during the year to which the general statement refers together as with a copy of the rules of the Trade Union corrected up to the date of the dispatch thereof to the Registrar."

Sub section (4) of section 28 of the act provides as follows.

"**(4)** For the purpose of examining the documents referred to in sub-section (1), (2) and (3), and Registrar, or any officer authorized by him by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents relating to a Trade Union, at its registered office or may require their production at such place as he may specify, in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union."

14. The provisions of section 28(2) of the act indicate that the statement showing all changes of the office bearers made by the Trade Union during the year has to be sent to the Registrar together with general statement containing receipts and expenditures during the year. Under sub section (4) the Registrar is empowered to inspect annually the registers and other documents relating to the Trade Union for the purposes of examining the documents referred to sub-section (1), (2) and (3). It appears that second party union is a recognized union registered under the Indian Trade Union Act, 1926 with the Registrar of the Trade Union on 23.5.2000 and therefore the second party workman has informed to the Registrar of the Trade Union regarding office members of the union and decision taken in the annual general meeting held on 15.4.14 and the Registrar of the Trade Union accepted the resolution passed on 15.4.14 by general body meeting.

15. But then the fact remains that as per legal position, Registrar of the Trade Union does not possess any adjudicatory power to resolve election disputes. Under sub section (4) of section 28, he has the power to inspect among other things, the registers and other documents relating to the Trade Union for the purposes of examining the documents which are referred to in sub sections (1), (2) and (3). This however, does not convert the function of Registrar under section 28 of the act into that akin to judicial or quasi-judicial matter. These are the observations which I borrow from the decision in case of Choudhry Rajkumar Singh & Anr. V/S. State of U.P. & 3 Ors. in case of special appeal defective No. 264 of 2015 wherein it is held that all the disputed questions of the fact in regard to validity of the elections can be resolved by civil suit.

16. It is held in the decision in case of Bhokaro Steel Workers Union and Anr. V/S. State of Bihar & Ors. – 1995 O Supreme (PAT – 91) that the Registrar of the Trade Union could hardly assume the power to advise the employer or the officials of labour department to recognize and treat any particular person as having the right to represent the union. Obviously, therefore the enquiry made for the purposes of section 28 (2) was administrative in character and did not finally adjudicate the claims of the parties and in respect of the dispute between the members of the union or in respect of election of Trade Union remedy is of civil suit.

17. In view of that it appears that the first party management has referred the matter to the office of DLW Commissioner [C] Naval Dockyard, Mumbai for expert legal opinion since the matter pertains to the labour laws. The DLW [C] has examined the matter and submitted the note sheet on 3.9.14 to the management having noted that such matters are infact very complicated and cannot be decided by executive authorities. This is due to fact that Trade Union Central Act is silent about the same. Moreover, provisions of section 28 (1)(a) of Trade Union act, 1926 may also be referred which is inserted by Maharashtra Act No. 3 of 1969.

18. So far legal opinion is concerned, it was noted by DLW in his office note that it is only the civil court who can decide such disputes and in the light of above facts this office i.e. the management is not in a position to express any opinion being an advisory body. It appears that inspite of legal opinion given by DLW Commissioner [C], Naval Dockyard, Mumbai, the first party has issued letter dated 8.8.14 and decided to accord concurrence to the faction of one group which may be dealt with in future for all official purposes. This is in violation of legal provisions and also amounts to violation of section 25 (T) read with clause 2 (a) and clause 3 of 5th Schedule of I.D. Act, 1947.

19. Learned Counsel for the first party submitted that the second party union has concealed the fact in respect of civil litigation between the two factions of union and then as per order of Hon'ble High Court in civil Revision application No. 69 of 2015, the order of Trial Court dated 23.12.14 is quashed and set aside and the suit came to be dismissed as not maintainable. It appears on going through the copy of the said Revision application that the said litigation was in between the two groups of union wherein the first party was not the party and the impugned letter issued by the first party was not an issue. On the contrary, Shri MG Nair witness of the first party has admitted in his cross examination that the management referred the contested matter to Dy. Labour Welfare Commissioner, Naval Dockyard, Mumbai for expert opinion who advised the first party and gave legal opinion in that respect. He also admits that even thereafter management has received the letters from the second party union dated 27.9.14 and 5.1.15 but said letter dated 8.8.14 was not withdrawn. In view of this it can be observed that knowingly thorough well about the legal position, the first party management issued the letter dated 8.8.14 in violation of section 25 (T) read with clause 2 (a) and 3 of 5th Schedule of I.D. Act, 1947. The issue No. 1 is therefore answered accordingly in the affirmative,

Issue No. 2.

20. As per order on Ex.8, the first party No.3 held to be necessary party that order has not been challenged. Issue No.2 is therefore answered accordingly in the negative. As such the reference is not bad for non-joinder of necessary parties.

Issue No. 3 & 4.

21. In view of my findings to Issue No.1, it is declared that the letter No. CPT[JCM]/ 3543/BPMS dated 8th August 2014 is without jurisdiction and is amounting to violation of existing provisions of law. In view of that, I pass the following order.

ORDER

(i) Reference is allowed with no order as to costs.

(ii) It is declared that letter No. CPT[JCM]/ 3543/BPMS dated 8th August 2014 and the action of the management of IHQ, Western Naval Command, Mumbai in dealing with the faction of RRSK led by Shri Ravindra Yadav for official purposes is in violation of existing provisions of law.

Date: 08.12.2017

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 423.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **राष्ट्रीय जूट मैन्युफैक्चरिंग कारपोरेशन लिमिटेड का प्रबंधन** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं.1 धनबाद,** के पंचाट **(संदर्भ संख्या 52/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.1.2018 को प्राप्त हुआ था।

[सं. एल-42011/113/2013-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 52/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court-I, Dhanbad** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the Management of National Jute Manufacturing Corporation Ltd.** and their workmen, which was received by the Central Government on 12.01.2018.

[No. L-42011/113/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No.52/2013

Employer in relation to the management of National Jute Manufacturing Corporation Ltd.

AND.

Their workmen.

Present : **Shri R.K.Saran**

Presiding Officer.

Appearances:

For the Employers : None

For the workman. : Shri K.P.Singh, Adv

State : Jharkhand. Industry- Textile

Dated- 08/01/ 2018

AWARD.

By order No. L-42011/113/2013-IR (DU) dated 28/10/2013, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of National Jute Manufacturing Corporation Limited is erroneous in denying any wage- structure to its mill workmen /employees for such a long period and why should it not do the same within a fixed time period?"

2. The case is received from the Ministry of Labour on 20.12.2013. After receipt of reference, both Parties are noticed, The workman files their demand on 23.01.2014 which is accepted by workman as written statement After long delay the management files their written statement-cum-rejoinder on 27.02.2015. thereafter rejoinder and document filed by the parties. No witness examined on behalf of the management but four witnesses produced by the workmen, but none is present to cross examined the withness by the management. Case is proceed ex-parte. But document of both side is marked as W-1 to W-03.

3. The group of workmen files an application for giving them adquate wage as that of other workmen of but inspite of due notice the representative of the management appears, but subsequently did not attend the court. The workmen files their claim and documents and examined four witnessess alongwith union representatives as witnessess. The documents clearly show that they were working under the Mill management .The PF. Slip , ESI paper, and election duty paper of workmen also filed.

4. On the other hand the case of the management is that the only dispute is adjudication of the justification of denial of wage structure for a long period and if not justified then a direction to the NMJC for providing a wage structure within a fixed time period . It is well settled that the authority has to confine only to the term of reference while adjudicating the dispute . No other dispute/demand is a subject matter of this reference case.

5. It is furether submitted by the management that the R. B.H.M was a private limited company initially. The Central Govt. in the year 1978 took over this mill along with few other under the provision of Indstries Act 1951. Thie mills were closed at the time of take over. After consideration of investigation reports feasibility reports etc, if was found

viable in public interst to nationalise this mill olong with four other jute mill. The mills were nationalised under the provision of the jute companies (Nationalisation) Act 1980. There after the company namely jute Manufacturers Corporation Limited was also registered under the companies Act 1956. The Central Govt. under section 6 of the jute companies Act directed vesting of RBHM and other four companies in NJMC Limited.

6. At present NJMC has under control six units including RBHM . However presently only 3 mills are operative 2 in Kolkata and 1 in Katihar RBHM.The RBHM was referred to BIFR on 11.08.92 under Section 15 (1) of SICA 1985 to declare it for sick unit and necessary revical package was sent for the Board BIFR on 07.06.1993 declared the RBHM as sick unit under section 3(1)(o) of SICA Act and appointed IDBI as operating agency under section 17 (3) of the Act and directed to formulate scheme for revival of same.

7. On 24.03.2004 the mill was completely closed due to continued heavy losses, disconnection of power , heavy wastage of manpower etc. The BIFR passed order for winding up of RBHM which is set-aside and passed direction for revival. Keeping in view a scheme for voluntary retirement of the employees RBHM was announced, since production was totally stopped for 2004 . The voluntary retirement scheme dues will be cleared to workmen in 2007 . Staff and supervisors in 2009 and officers etc in 2011.

8. It is furether submitted by the management that ultimately a decision was taken by Ministry of Textile to run the mill by outscoucing and giving the entire operation of the mill to contractor . In view of that contractor by virtue of an agreement it was given the responsibility to supply staff and security personnel etc. to run the factory and the salary/wages ect of such employee were to be paid by the contractor. This contractor was duly licensed under contract Labour Act. Hence the contactor is responsible for the service condition of such employees and it was the pay master for them. For all purpose the contractor was the employer and RBHM/NJMC were not directly responsible.

9. It is further submitted by the management that in other jute mill of NJMC or even under private sector the salary wages paid to the employees are consolidated whenever there is any increase is their some amount is added into the consolidated wage. There is no wage scale in any jute factory in the reason nor it is of any benefit to the employeees concerned. As such employees of RBHM are neither entitled for any increase of wage nor any direction was required to frame any wage scale.

10. On perusal of all the documents as it appears, the documents are unchallenged, photocopies of the documents of the jute mill and insureance papers , PF papers and identity cards. The workmen witnesses have clearly stated that they are the contract workers. There is no doubt to disbelieve those documents. Hence it is ordered that the concerned workmen be immediately taken in job, as contract labourer and pay them wages as prescirbed rate of Government within one month from the publication of the award in the gazette.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **महाप्रबंधक, आयुध कारखाने संस्थान शिक्षण का स्थान, अम्बाझरी, नागपुर** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर** के पंचाट **(CGIT/NGP/67/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.02.2018 को प्राप्त हुआ था।

[सं. एल-14011/09/2013-आई.आर. (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/67/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Nagpur** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the General Manager, Ordnance Factories Institute of Learning, Ambajhari, Nagpur** and their workmen, which was received by the Central Government on 08.02.2018.

[No. L-14011/09/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No.CGIT/NGP/67/2013 Date: 09.01.2018.

Party No.1 : The General Manager,
Ordnance Factories Institute of
Learning, Ambajhari,
Nagpur-440021.

Versus

Party No.2 : The General Secretary,
Ordnance Factory Contractors' Employees Union, 39-C, Sadachar Griha Nirman
Society, Duttawadi, Wade,
Nagpur-440023.

AWARD

(Dated: 09th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Ordnance Factory Ambajhari Nagpur and their union "Ordnance Factory Contractor's Employees Union," for adjudication, as per letter **No.L-14011/09/2013-IR (DU) dated 30.08.2013,** with the following schedule:-

> **"Whether the action of the management of Ordnance factories Institute of Learning, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair and legal? To what relief the workmen are entitled to?"**

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, Ordnance Factory Contractor's Employees Union, ('the Union" in short), filed the statement of claim and the management of Ordnance Factories Institute of Learning, Ambajhari, Nagpur ("Party No. 1" in short) filed their written statement.

According to the union claimants were contract labours working in Ordnance Factory as well as Ordnance Factories Institute of Learning. That Institute was imparting and vocational training to the officers/supervisors/ employees of Ordnance Factory and was an integral part of Ordnance Factory. Their union duly registered under the Trade Union Act and Party no.1 was factory registered under the Factories Act and it was an industry within the meaning of I.D. Act 1947. They were governed by Central Civil Service Rules. It is also mentioned that OFIL and Ordnance Factory are situated at same premises. According to the union, it is one unit for the purpose of Factory Act as well as Industrial Dispute Act. In OFIL, around 33 contract labours were employed.

3. Contractor engaged by OFIL was required to obtain license and each contractor was also registered under Bombay Shops and Establishment Act, 1948. According to the union, contract labours were employed in core as well as non-core activities, which are perennial in nature. The contractors were merely commission agents. The workers were direct employees of the OFIL because entire arrangement of contract labours instead of regular labour amount to shame and bogus contract.

4. According to the union workers were paid wages and also deduct EPF and ESIC. According to the union primary responsibility of payment of wages to the contract labours was on contractor and same will be paid by the management but wages payable to the workmen, shall not be less than minimum wages prescribed by the Government. According to the union Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 was applicable to the workers engaged by Party no.1 because factory management did not provide housing accommodation.

5. According to the union, several times they prayed to the management but management did not agree, so by filing statement of claim, they prayed that, their worker were entitled to House Rent allowance from the date of their respective appointment and they also pray that answer of reference in favour of union and also pray for other relief.

6. On the contrary, management by filing the written statement denied that contract labours were entitled for House Rent Allowance from the date of their respective appointment. They also denied that workers did indulge in trade union activities. According to them they were not employed by OFIL. OFIL is imparting training to the officers as well as other employees of Ordnance Factory. It is also denied that, it was an integral part of Ordnance Factory.

7. According to the management, no HRA was paid to the contract labours because RLC Nagpur was also not mentioning in the notification regarding the wages. Contract labours were doing a work of sweeping, cleaning and gardening. It is also denied that contract employees were direct employee of OFIL.

8. According to the management, OFIL is neither an industry nor comes in preview of factory, so Maharashtra Minimum House Rent Allowance Act, 1983 is not applicable. Party No. 1 also prayed that, this reference is liable to be dismissed.

9. Union also filed rejoinder by asserting this fact that, Maharashtra Act of Minimum House Rent Allowance was applicable to their workers. They also asserted that allegation in the Written statement was denied. So they prayed that in the interest of justice this Tribunal is awarded House Rent Allowance.

10. Both parties lead evidence. On behalf of the union, Shri P.K. Mohanan was examined as union witness. By supporting his statement of claim as a General Secretary of Union, asserted that no resolution was passed by the union to expose the dispute on behalf of the workmen. He also admitted that, claimants were contract labours. He also admitted that, he has not filed any document to show that, their union is recognized by the employer. It was also admitted that OFIL is Training Institute and separate from Ordnance Factory. After perusal of the statement of the witness, it appears to me that, claimants were contract labours and not employed by the Party No. 1.

11. On behalf of the management, Mr. V. Maruti was examined as management witness. He holds the post of Dy. Director of OFIL. He asserted that, HRA is not a part of minimum wages. According to the witness, contract labours are not being paid the HRA. The OFIL is not dealing with the contract labours but contractors used to pay the wages, which were checked by OFIL.

After reading the statement, my opinion is that, he asserted correct facts, which are based on records. I feel, he is giving correct and genuine statement. Nothing is shown that, he prejudices any claimant of Party no.2. Now we come to the legal position.

12. The Section 13 of The Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 provides the power of State Government to exempt in special cases. In exercise of these powers Maharashtra Government issued notification in official gazette dated 26.12.1990 which runs as follows:-

"In exercise of the powers conferred by sub-section (i) of Section 13 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983 (Mah XXIII of 1988), the Government of Maharashtra, being satisfied that it is just and proper so to do in the public interest, hereby directs that, with effect from 1st January, 1991, the provisions of the said Act shall not apply to the factories and establishment in the industries:-

(a) Carried on by or under the authority of any Department of the Government of India; and

(b) The management of which has been taken over by the Government of India under any law for the time being in force.

13. Case laws:- Union of India through Secretary Ministry of Defence vs. M.M. Rangari, Ordnance Factory Chandrapur and others, 2011 III CLR-800(Bombay High Court) and Dr. Ajay Choudhary Vs. Government of NCT Delhi, 2001 LIC 3847 in which following principles were laid down :-

(i) In Nagpur city without obtaining "No Accommodation Certificate" from the authority concerned, any government servant including defence employees, is not entitled to HRA; (ii) Unless a binding law or specific Regulation governing is pointed out for payment of HRA , respondents are not entitled to claim the same, (iii) Impugned order is unsustainable and hence quashed and set aside.

There is a Government Circular that no Government servant availing Government accommodation is entitled to claim House Rent Allowance. In view of the same, the junior and senior resident Doctors who are availing Government accommodation are not entitled to benefit of House Rent Allowance.

14. Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that, law is well settled that, Section 4 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983, is not applicable to party no.1 in regards to contract labours working in factory because Maharashtra Govt. notification dated 26.12.1990 in which Central Government Industries were exempted from HRA provisions of this Act. So the reference is answered in negative. Hence, it is ordered:

ORDER

The action of the management of Ordnance factories Institute of Learning, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair and legal. The workmen are not entitled to any relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 425.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **महाप्रबंधक, आयुध निर्माणी, अम्बाझारी, नागपुर** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नागपुर,** के पंचाट **(CGIT/NGP/49/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.02.2018 को प्राप्त हुआ था।

[सं. एल-14011/07/2013-आई आर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/49/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Nagpur** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the General Manager, Ordnance Factories Ambajhari, Nagpur** and their workmen, which was received by the Central Government on 08.02.2018.

[No. L-14011/07/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No.CGIT/NGP/49/2013 Date: 09.01.2018.

Party No.1 : The General Manager,
Ordnance Factory Ambajhari,
Nagpur-440021.

Versus

Party No.2 : The General Secretary,
Ordnance Factory Contractor's Employees
Unit, Sirsat Niwas, Plot no. 67,
Navneet Nagar, Wadi, Nagpur-440023.

AWARD

(Dated: 09th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Ordnance Factory Ambajhari Nagpur and their union "Ordnance Factory Contractor's Employees Union," for adjudication, as per letter **No.L-14011/07/2013-IR (DU) dated 02.09.2013,** with the following schedule:-

> **"Whether the action of the management of Ordnance Factory, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair and legal? To what relief the workmen are entitled?"**

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union Ordnance Factory Contractor's Employees Union, ('the Union" in short), filed the statement of claim and the management of Ordnance Factory Ambajhari Nagpur ("Party No. 1" in short) filed their written statement.

According to the union claimants were contract labours working in Ordnance Factory. Their union duly registered under the Trade Union Act and Party no.1 was factory registered under the Factories Act and it was an industry within the meaning of I.D. Act 1947. In this industry workers were categorized as Industrial and non-industrial employees. They were governed by Central Civil Service Rules. Party no.1 had been manufacturing various

defence components as well as equipments and in factory around 1000 contract labours were employed. The work being done by contract labours was of regular nature.

3. Contractor engaged by Ordnance Factory was required to obtain licence and each contractor was also registered under Bombay Shops and Establishment Act, 1948. According to the union contract labours were employed in core as well as non-core activities which are perennial in nature. The contractors were merely commission agents. The workers were direct employees of the Ordnance Factory.

4. According to the union workers were paid wages and also deduct EPF and ESIC. According to the union primary responsibility of payment of wages to the contract labours was on contractor and same will be paid by the management but wages payable to the workmen shall not be less than minimum wages prescribed by Government. According to the union Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 was applicable to the workers engaged in Party no.1 because factory management did not provide housing accommodation.

5. According to the union several times they pared to the management but management did not agree, so by filing statement of claim they prayed that their worker are entitled to House Rent allowance from their dates of respective appointment and they also pray that answer of reference in favour of union and also pray for other relief.

6. On the contrary management by filing the written statement denied that contract labours were entitled for House Rent Allowance from their dates of respective appointment. They also denied that workers did indulge in trade union activities. According to them they were not employed by Ordnance Factory. Contract Labours are also debarred from entering OFAJ estate and factory. It is also denied that 1150 labours were deputed during current period through contract labours for a period varies from 4 months to 1year. According to the management after expiry of period of contract, fresh contract will be issued by following due process.

7. According to the management no HRA is paid to the contract labours because RLC Nagpur is also no mentioning in the notification regarding the wages. Contract labours were doing a work of sweeping of shop floor, loading and unloading materials. It is also denied that contract employees were direct employee of Ordnance factory. According to the management a claimant had made this false statement to gain certain benefit.

8. According to the Management OFAJ was not reimbursing any HRA to contractors so employees of the union were not entitled for HRA. They also pray that there was no merit in this case and hence the same may request to be dismissed.

9. Union also filed rejoinder by asserting this fact that Maharashtra Act of Minimum House Rent Allowance was applicable to their workers. They also asserted that allegation in the Written statement was denied. So they pray that in interest of justice this Tribunal is awarded House Rent Allowance.

10. Both parties lead evidence. On behalf of the union Shri P.K. Mohanan was examined as union witness. By supporting his statement of claim as a General Secretary of Union asserted that no resolution was passed by the union to expose the dispute on behalf of the workman. He also admitted that claimants were contract labours. He also admitted that contractors had not being made party in this case. He also admitted that workmen were not the employees of Ordnance factory. He also admitted that payment of HRA to the contract labours was the primary responsibility of the contractor. The contractors were used to be change. After perusal of the statement it appears that the claimants were contract labours and not employees of the party no.1 of the management.

11. On behalf of the management Mr. Sanjay Roy Choudhary was examined as management witness. He holds the post of junior work manager at party no.1 since June 2010. He also admitted that in factory both permanent and non-permanent employees are engaged in production activities. All these employees are paid their wages on monthly basis. He also admitted that after expiry of contract they issue fresh advertisement in newspaper for contractor for specific work. The successful bidder was given the contract for employees. Labour payment was given as per the prescribed rate mentioned by RLC. Witness also said that in their factory productive link bonus was applicable.

After reading the statement my opinion is that he asserted correct facts which are based on documents. I feel he is giving correct and genuine statement. Nothing is show that he prejudices any party no.2. Now we come to the legal position.

12. The Section 13 of The Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 provides the power of State Government to exempt in special cases. In excersie of these powers Maharashtra Government issued notification in official gazette dated 26.12.1990 which runs as follows:-

In exercise of the powers conferred by sub-section (i) of Section 13 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983 (Mah XXIII of 1988), the Government of Maharashtra, being satisfied that it is just and proper so to do in the public interest, hereby directs that, with effect from 1st January, 1991, the provisions of the said Act shall not apply to the factories and establishment in the industries:-

(a) Carried on by or under the authority of any Department of the Government of India; and

(b) The management of which has been taken over by the Government of India under any law for the time being in force.

13. Case laws:- Union of India through Secretary Ministry of Defence vs. M.M. Rangari, Ordnance Factory Chandrapur and others, 2011 III CLR-800(Bombay High Court) and Dr. Ajay Choudhary Vs. Government of NCT Delhi, 2001 LIC 3847 in which following principles were laid down :-

(i) In Nagpur city without obtaining "No Accommodation Certificate" from the authority concerned, any government servant including defence employees, is not entitled to HRA; (ii) Unless a binding law or specific Regulation governing is pointed out for payment of HRA , respondents are not entitled to claim the same, (iii) Impugned order is unsustainable and hence quashed and set aside.

There is a Government Circular that no Government servant availing Government accommodation is entitled to claim House Rent Allowance. In view of the same, the junior and senior resident Doctors who are availing Government accommodation are not entitled to benefit of House Rent Allowance.

14. Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that law is well settled that Section 4 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983, is not applicable to party no.1 in regards to contract labours working in factory because Maharashtra Govt. notification dated 26.12.1990 in which Central Government Industry were exempted from HRA provisions of this Act. So the reference is answered in negative. Hence, it is ordered:

ORDER

The action of the management of Ordnance Factory, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair and legal. The workmen are not entitled for any relief.

S.S. GARG, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 426.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **महाप्रबंधक, राष्ट्रीय एकेडमी ऑफ डिफेंस, नागपुर** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नागपुर,** के पंचाट **(CGIT/NGP/65/2013)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.02.2018 को प्राप्त हुआ था।

[सं. एल-14011/08/2013-आई आर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(CGIT/NGP/65/2013)** of the **Central Government Industrial Tribunal-cum-Labour Court, Nagpur** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the General Manager, National Academy of Defence,, Nagpur** and their workmen, which was received by the Central Government on 08.02.2018.

[No. L-14011/08/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOURT COURT, NAGPUR

Case No. CGIT/NGP/65/2013 Date: 09.01.2018.

Party No.1 : The General Manager,
National Academy of Defence
Production, Ambajhari,
Nagpur-440021.

Versus

Party No. 2 : The General Secretary,
Ordnance Factory Contractors' Employees
Union, 39-C, Sadachar Griha Nirman
Society, Duttawadi Wade,
Nagpur-440023.

AWARD

(Dated: 09th January, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Ordnance Factory Ambajhari Nagpur and their union "Ordnance Factory Contractor's Employees Union," for adjudication, as per letter **No.L-14011/08/2013-IR (DU) dated 30.08.2013,** with the following schedule:-

> **"Whether the action of the management of National Academy of Defence Production, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair and legal? To what relief the workmen are entitled to ?"**

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, Ordnance Factory Contractor's Employees Union, ('the Union" in short), filed the statement of claim and the management of National Academy of Defence Production, Ambajhari, Nagpur ("Party No. 1" in short) filed their written statement.

According to the union claimants were contract labours working in Ordnance Factory as well as National Academy of Defence Production. Their union duly registered under the Trade Union Act and Party no.1 was factory registered under the Factories Act and it was an industry within the meaning of I.D. Act 1947. In this industry workers were categorized as Industrial and non-industrial employees. They were governed by Central Civil Service Rules. It is also mentioned that NADP and Ordnance Factory are situated at same premise. According to the union, it is one unit for the purpose of Factory Act as well as Industrial Dispute Act. In NADP, around 125 contract labours were employed. The work being done by contract labours was of regular nature.

3. Contractor engaged by NADP was required to obtain license and each contractor was also registered under Bombay Shops and Establishment Act, 1948. According to the union, contract labours were employed in core as well as non-core activities, which are perennial in nature. The contractors were merely commission agents. The workers were direct employees of the Ordnance Factory.

4. According to the union workers were paid wages and also deduct EPF and ESIC. According to the union primary responsibility of payment of wages to the contract labours was on contractor and same will be paid by the management but wages payable to the workmen shall not be less than minimum wages prescribed by Government. According to the union Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 was applicable to the workers engaged by Party no.1 because factory management did not provide housing accommodation.

5. According to the union, several times they prayed to the management but management did not agree, so by filing statement of claim they prayed that, their worker are entitled to House Rent allowance from their date of respective appointment and they also pray that, answer of reference in favour of union and also pray for other relief.

6. On the contrary, management by filing the written statement denied that contract labours were entitled for House Rent Allowance from the date of their respective appointment. They also denied that workers did indulge in trade union activities. According to them they were not employed by NADP. NADP is imparting technical and vocational training to the officers of Ordnance Factory. It is also denied that, it was an integral part of Ordnance Facto. According to the management after expiry of period of contract, fresh contract would be issued by following due process.

7. According to the management no HRA is paid to the contract labours because RLC Nagpur is also not mentioning in the notification regarding the wages. Contract labours were doing a work of sweeping of shop floor, loading and unloading materials. It is also denied that contract employees were direct employee of NADP. According to the management a claimant had made this false statement to gain certain benefit.

8. According to the management, NADP was not reimbursing any HRA to contractors, so employees of the union were not entitled for HRA. In a specific pleading, management has also submitted that, Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970, the Government was empowered to prohibit employment of

contract labours in any process, operation or other work in any establishment. They also mentioned that, Industrial Tribunal has no jurisdiction to adjudicate upon the dispute relating the contract labour. According to the management, claimant is not entitled HRA. They also pray that there was no merit in this case and hence the same may request to be dismissed.

9. Union also filed rejoinder by asserting this fact that, Maharashtra Act of Minimum House Rent Allowance was applicable to their workers. They also asserted that allegation in the Written statement was denied. So they pray that in interest of justice this Tribunal is awarded House Rent Allowance.

10. Both parties lead evidence. On behalf of the union, Shri P.K. Mohanan was examined as union witness. By supporting his statement of claim as a General Secretary of Union, asserted that no resolution was passed by the union to expose the dispute on behalf of the workmen. He also admitted that claimants were contract labours. He also admitted that, he has not filed any document to show that, their union is recognized by the employer. It was also admitted that NADP is Training Institute and separate from Ordnance Factory. After perusal of the statement of the witness, it appears to me that, claimants were contract labours and not employed by the Party No. 1.

11. On behalf of the management, Mr. Prem Prakash was examined as management witness. He holds the post of Director of NADP. He was working in Nagpur office from January, 2017. Wages were being paid on monthly basis on the basis of statutory laws. According to the witness, contract labours do the peripheral job of housekeeping, gardening and repairing etc. He also admitted that, contractors got valid registration and license.

After reading the statement, my opinion is that, he asserted correct facts, which are based on records. I feel he is giving correct and genuine statement. Nothing is show that he prejudices any claimant of Party no.2. Now we come to the legal position.

12. The Section 13 of The Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 provides the power of State Government to exempt in special cases. In excersie of these powers Maharashtra Government issued notification in official gazette dated 26.12.1990 which runs as follows:-

"In exercise of the powers conferred by sub-section (i) of Section 13 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983 (Mah XXIII of 1988), the Government of Maharashtra, being satisfied that it is just and proper so to do in the public interest, hereby directs that, with effect from 1st January, 1991, the provisions of the said Act shall not apply to the factories and establishment in the industries:-

(a) Carried on by or under the authority of any Department of the Government of India; and

(b) The management of which has been taken over by the Government of India under any law for the time being in force.

13. Case laws:- Union of India through Secretary Ministry of Defence vs. M.M. Rangari, Ordnance Factory Chandrapur and others, 2011 III CLR-800(Bombay High Court) and Dr. Ajay Choudhary Vs. Government of NCT Delhi, 2001 LIC 3847 in which following principles were laid down :-

(i) In Nagpur city without obtaining "No Accommodation Certificate" from the authority concerned, any government servant including defence employees, is not entitled to HRA; (ii) Unless a binding law or specific Regulation governing is pointed out for payment of HRA , respondents are not entitled to claim the same, (iii) Impugned order is unsustainable and hence quashed and set aside.

There is a Government Circular that no Government servant availing Government accommodation is entitled to claim House Rent Allowance. In view of the same, the junior and senior resident Doctors who are availing Government accommodation are not entitled to benefit of House Rent Allowance.

14. Judging the present case in hand with the touch stone of the principles as mentioned above, it is found that, law is well settled that, Section 4 of the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983, is not applicable to party no.1 in regards to contract labours working in factory because Maharashtra Govt. notification dated 26.12.1990 in which Central Government Industries were exempted from HRA provisions of this Act. So the reference is answered in negative. Hence, it is ordered:

ORDER

The action of the management of National Academy of Defence Production, Ambajhari, Nagpur in depriving the contract labours employed through various contractors from the payment of house rent allowance in accordance with the provisions of the Maharashtra Worker's Minimum House Rent Allowance Act, 1983 is fair . The workmen are not entitled to any relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 427.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **निदेशक,परमाणु खनिज निदेशक,अन्वेषण और अनुसंधान, परमाणु ऊर्जा विभाग, जयपुर** और उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायाल जयपुर,** के पंचाट **(संदर्भ संख्या 24/2011, 25/2011, 26/2011, 27/2011, 28/2011)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2018 को प्राप्त हुआ था।

[सं. एल-14012/4/2009-आई.आर. (डीयू),

सं. एल-14012/3/2009-आई.आर. (डीयू),

सं. एल-14012/5/2009-आई.आर. (डीयू),

सं. एल-14012/2/2009-आई.आर. (डीयू),

सं. एल-14012/1/2009-आई.आर. (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 24/2011, 25/2011, 26/2011, 27/2011, 28/2011)** of the **Central Government Industrial Tribunal-cum-Labour Court, Jaipur** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the Director, Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur** and their workmen, which was received by the Central Government on 20.02.2018.

[No. L-14012/4/2009-IR (DU),

No. L-14012/3/2009-IR (DU),

No. L-14012/5/2009-IR (DU),

No. L-14012/2/2009-IR (DU),

No. L-14012/1/2009-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Bharat Pandey**,** Presiding Officer

(1) I.D.24/2011

Reference No.L-14012/4/2009(IR(DU)) dated: NIL

Shri Ram Sharma

S/o Shri lallulal Sharma

R/o Plot No. 13/14,

Punchwati Colony, Tonk Road,

Sanganer, Jaipur.

V/s

The Director

Atomic Mineral Directorate for Exploration and Research

D/o Atomic Energy, AMD Complex,

Sector-5 Extn. Pratap Nagar,

Sanganer, Jaipur – 302011.

(2) I.D.25/2011

Reference No.L-14012/3/2009(IR(DU)) dated: 13.7.2011

Shri Danna Lal

S/o Shri Jagdish Bairwa

R/o 34/22,

Sector-3, Pratap Nagar,

Sanganer, Jaipur - 302011.

V/s

The Director

Atomic Mineral Directorate for Exploration and Research

D/o Atomic Energy, AMD Complex,

Sector-5 Extn. Pratap Nagar,

Sanganer, Jaipur – 302011.

(3) I.D.26/2011

Reference No.L-14012/5/2009(IR(DU)) dated: 13.7.2011

Shri Rakesh Kumar Upadhyay

S/o Shri Harikishan Sharma

R/o Sector- 82/271

Chetak Marg, Pratap Nagar,

Sanganer, Jaipur - 302011.

V/s

The Director

Atomic Mineral Directorate for Exploration and Research

D/o Atomic Energy, AMD Complex,

Sector-5 Extn. Pratap Nagar,

Sanganer, Jaipur – 302011.

(4) I.D.27/2011

Reference No.L-14012/2/2009(IR(DU)) dated: 13.7.2011

Shri Chhagan Lal Dhanka

S/o Shri Gulab Chand Dhanka

R/o Village Shopur

Dhankaon Ka Mohalla

Pratap Nagar,Sanganer,

Jaipur - 302011.

V/s

The Director

Atomic Mineral Directorate for Exploration and Research

D/o Atomic Energy, AMD Complex,

Sector-5 Extn. Pratap Nagar,

Sanganer, Jaipur – 302011.

(5) I.D.28/2011

Reference No.L-14012/1/2009(IR(DU)) dated: 13.7.2011

Shri Manoj Kumar Pipliwal

S/o Shri Kanhaiya Lal

R/o Plot No. 23, Moji Nagar Colony

Pratap Nagar,Sanganer,

Jaipur - 302011.

V/s

The Director

Atomic Mineral Directorate for Exploration and Research

D/o Atomic Energy, AMD Complex,

Sector-5 Extn. Pratap Nagar,

Sanganer, Jaipur – 302011.

Present

For the Applicant : Sh. Kunal Rawat, Advocate.

For the Non-applicant : Sh. T.P.Sharma, Advocate.

AWARD

Dated:. 22.12.2017

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

CGIT 24/2011

"Whether the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating the services of Shri Ram Sharma S/o Shri Lallulal Sharma w.e.f. 30.4.2008 is legal and justified? What relief the workman is entitled to?"

CGIT 25/2011

"Whether the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating the services of Shri Danna Lal S/o Shri Jagdish Bairwa w.e.f. 30.4.2008 is legal and justified? What relief the workman is entitled to?"

CGIT 26/2011

"Whether the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating the services of Shri Rakesh Kumar Upadhyay S/o Shri Harikishan Sharma w.e.f. 30.4.2008 is legal and justified? What relief the workman is entitled to?"

CGIT 27/2011

"Whether the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating the services of Shri Chhagan Lal Dhanka S/o Shri Gulab Chand Dhanka w.e.f. 30.4.2008 is legal and justified? What relief the workman is entitled to?"

CGIT 28/2011

"Whether the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating the services of Shri Manoj Kumar Peepliwal S/o Shri Kanhaiya Lal w.e.f. 30.4.2008 is legal and justified? What relief the workman is entitled to?"

2. All the five cases mentioned above are similar & based on same cause of action. All the applicants related to the cases have been terminated on same date & all of them are said to have been working on same post of Helper, Technical Assistant. Their cases are also based on similar evidence hence, all the cases are taken together for disposal. CGIT case no. 24/2011, Shri Ram Sharma V/s The Director, Atomic Mineral Directorate for Exploration and Research will be leading case.

3. According to statement of claims submitted by applicants briefly facts of the case are that applicant Shri Ram Sharma was appointed as class IV employee (Helper, Technical Assistant) on 6.7.2006, Shri Rakesh Kumar Upadhyay & Shri Chhagan Lal on 5.7.2005, Shri Manoj Kumar Peepliwal on 10.1.2006 & Shri Danna Lal in the month of July, 2006 on unknown date. Applicants are a ' workman' within the meaning of section 2(S) of I.D.Act, 1947. They were doing the work of crushing the samples of stones, filtering the crushed samples and putting the filtered power into boxes and putting label on the boxes. They were also performing the job of stone rubbing and pasting the proceeds on glass-slide and polishing etc. Beside above mentioned work applicants were further performing the work of waterman, preparation of tea, table cleaning, telephone attending, mail distribution & photocopy preparation. All the above mentioned work were carried out by them on the direction of officers and scientist of the opposite party. Analysis and identification of uranium was made on the basis of all the abovementioned work carried out by applicants and on that basis government of India was carrying out the production of uranium. The abovementioned process is covered within the meaning of ' Industry' as defined under section 2(j) of I.D.Act, 1947.

4. Applicants have further alleged in para 7 of statement of claim that their removal from service by non-applicant on 30.4.2008 is illegal and void on the following grounds:-

i. Applicant was working in complete supervision, control and direction of the officers of opposite party, employer which proves employer-employee relationship between non-applicant and applicant. Applicant was working for more than eight hours daily and paid on monthly basis. He was appointed against regular work and he was carrying out the work of continuing nature.

ii. Applicant has worked continuously for more than 240- days & has been removed from service in violation of section 25-F, 25-G 25-H & 25-N of I.D.Act, 1947 and rule 77 & 78 of Industrial Disputes (Central) Rules, 1957.

iii. Applicant has been removed from service without any domestic enquiry conducted against him and non-applicant has adopted unfair labour practice in removal of applicant from service. Non-applicant has victimized the applicant by removing him from service and removal has been done to escape from regularization of the applicant in service.

iv. It has been further alleged that applicant was also working on Saturday and Sunday of the week but opposite party was deliberately not showing the attendance of the applicant in attendance register and attendance on these two days were made only in the register kept at the gate which is indicative of planned unfair labour practice of the non-applicant. Applicant has alleged himself to be jobless since his removal from service and has prayed to declare his removal from service on 30.4.2008 as illegal and void with reinstatement in service with continuity and all consequential benefits.

5. Replies filed by opposite party against statement of claim of applicants consists two parts. Part one describe preliminary objection and part two describes parawise reply.

6. In preliminary objection it has been alleged that applicants were not appointed on any post and they were engaged as part time casual workers on contract basis according to availability of budget and necessity of work. Further it has been alleged that when applicants were not appointed on any specific post according to rules of recruitment, the question of their removal from service or absence from place of duty does not arise.

7. Further it has been alleged that any direct or indirect work of the Atomic Mineral Directorate for exploration and Research, Western Zone, Department of Atomic Energy is not covered within the definition of 'Industry' as per section 2(j) of I.D.Act,1947 hence, applicants are not entitled to any relief under the act. Applicants were engaged under the contract on availability of work to complete definite work in definite time based on availability of budget. Such engagements are covered under section 2(oo) (bb) of I.D.Act, 1947 hence, applicants are not entitled to the benefit of section 25-F of I.D.Act.

8. It has been further alleged that earlier reference in the present cases were denied by Ministry of Labour on the ground that applicants had failed to show on the basis of evidence that they had worked for 240 days continuously during calendar year, hence, claim of applicants is not maintainable. Applicants have not worked for 240 days in any calendar year because they were called for work as a casual worker based only on need of the work and their services were automatically coming to end with end of the work. Information about end of work was posted in writing on the

notice board beside informing the applicant orally. Applicants were not entitled to any notice under section 25-F of I.D.Act.

9. In parawise reply issue of appointment letter or appointment of the applicants in IVth class on any post has been specifically denied, thus, statement in para 1 & 2 have been denied.

10. Statement in para 3 to 7 have been denied. Repeating the contentions of preliminary objection, 240 days work by applicants in any calendar year has been denied with contention of their engagement on contract based on availability of work. It has been alleged that their engagement was ending with end of work hence, notice to remove them from work was not required.

11. It has been alleged against statement of para 4 to 5 of claim that work done by applicants were not existing all the time with non-applicant and because of this applicants were engaged on contract on part time basis for the period of existence of work only and at the time of engagement applicants were specifically and clearly told orally that their engagement is purely casual & they are not entitled to the benefit of the provisions of I.D.Act.

12. Non-applicant has specifically denied that removal of the applicants are based on animosity. It has been alleged that services were automatically coming to end at the end of the work. No assurance was ever given by non-applicant about regularization of the applicants.

13. Denying contention in para 7 of the claim it has been alleged that when no appointment was given to the applicants the question of termination of their services in illegal manner does not arise. Applicants were not appointed on any post. All contention in para 7(a) to 7(q) have been specifically denied and further alleged that there is no employer-employee relationship between opposite party and applicants. Applicants were engaged as part time casual labourer on contract based on availability of work and corresponding budget and after completion of work they were leaving on their own accord.

14. Further, against reply to para 7(D) it has been alleged that no notice was required to be given to applicants because notice is necessary only in relation to permanent employee or an employee who has completed 240 days and department is not satisfied with performance of the employee then in such case of unsatisfaction employee may be removed after one month's notice.

15. It has been further alleged that neither any person has been engaged since the applicants left the place after finishing the work nor any person junior to them has been retained for work. Applicants have not worked for 240 days in any calendar year.

16. It has been alleged against para 7(m) that applicants have neither been appointed nor removed from service by opposite party. It has been alleged against para 7(n) to 7(q) that because of the temporary nature of the work the applicants were himself leaving the place of work on non availability of work and they were engaged only on availability of work.

17. In rejoinder, preliminary objections have been repelled by denying the contentions of objection and against parawise reply to statements of claim, applicants have reiterated the contention of their statement of claims.

18. Applicants have filed their affidavit in evidence and have been cross-examined by opposite party. Opposite party has filed affidavit of Shri Vinod Kumar C.K. S/o shri A.P.K. Nambiar, Assistant Personnel Officer, who has been cross examined by applicants side.

19. Applicant Shri Ram Sharma has filed documentary evidence Ex-w1 to Ex-w-16 which are photocopies of attendance record, payment record, sanction of service contract etc. Similarly other applicants have filed similar documents. Opposite party has filed documentary evidence Annexure R/1 to R/5 relating to detail of period of work done by applicant in various calendar year, quotation for work and request and sanction order relating to work to be carried out on contract. Document filed by opposite party management are in response to the demand of documents made by applicants vide their application dated 27.11.2012. There is no other documentary or oral evidence on record filed by parties.

20. Heard the argument of learned representative of the applicant and opposite party management and perused the record carefully.

21. It has been argued by learned representative of the applicants that they were appointed on the post of Helper, Technical Assistant by opposite party and their services were terminated by opposite party on 30.4.2008 in violation of the provision of section 25-F, 25-G & 25-H of the I.D.Act, 1947 & rule 77 & 78 of Industrial Dispute (Central) Rules, 1957. It has been further argued that applicants had worked for more than 240 days immediately preceding the date of termination without notice or pay in lieu of notice or payment of retrenchment compensation. Countering the above argument it has been argued by learned counsel for the opposite party that applicants were not appointed by opposite party on any post and because they were not appointed by opposite party hence, question of termination of services of the applicants by opposite party does not arise and provisions of I.D.Act, 1947 do not apply in the case of the applicants. Further, it has been argued that on the basis of availability of the budget engagement of the applicants were

made on contract on the basis of tenders issued by department for definite work to be completed in fixed time and case of the applicants are covered under section 2(oo)(bb) of I.D.Act, 1947. It has also been argued that there is no employer-employee relationship between opposite party & applicants. Further, it has been submitted that opposite party is not an 'Industry' within the meaning of section 2(j) of I.D.Act, 1947 hence, provision of I.D.Act, 1947 are not attracted against opposite party & thus statement of claim of the applicants are liable to be dismissed. Learned counsel for applicants has repelled the argument that opposite party is not an "Industry" & has alleged that activities in the premises of opposite party is within the definition of "Industry".

22. No case has been cited by opposite party. Following cases have been referred by learned counsel for the applicants:-

1. AIR 2006 Supreme Court 355(1), R.M.Yellatti……Appellant V/s Assistant Executive Engineer……..Respondent.

2. 2011 (128) FLR 121 (Supreme Court), Kuldeep singh……Appellant v/s G.M., Instrument Design Development and Facilities Centre……..Respondent.

3. 2010 Supreme Court 1236, Director Fisheries Terminal Division ……Appellant v/s Bhikubhai Meghajibhai Chavda ……..Respondent.

4. 2011 (130) FLR 337, Devedra Singh ……Appellant v/s Municipal Council, Sanaur ……..Respondent.

5. Civil appeal no. 4980 of 2014, Supreme Court, Tapash Kumar paul…..petitioner v/s BSNL & Anr… ……..Respondents.

6. 2010 LAB.I.C. 1723 (Supreme Court), Krishan Singh…. ……Appellant v/s Executive Engineer Haryana State Agricultural Marketing Board, Rohtak ……..Respondent.

7. 2010 LAB. I.C. 3926 (Orissa High Court), Divisional Manager, Boudh Commercial Division, Orissa Forest Development Corporation Ltd. ……Appellant v/s Godabarish Badajena & anr. ……..Respondents.

8. 2008 (118) FLR 460 (Himachal Pradesh High Court), Block Development Officer, Pragpur ……petitioner v/s Yoginder Kumar & others ……..Respondents.

9. RLR 1987 (1) (Rajasthan High Court), Bhanwar lal & Ors ……petitioner v/s Municipal board, Nagaur & Ors. ……..Respondents.

10. 2010 LAB I.C. 1433 (Supreme Court), Harjinder Singh ……Appellant v/s Punjab State Warehousing Corporation ……..Respondent.

23. Looking into argument of both the parties I proceed to determine first whether opposite party is an 'Industry' within the meaning of section 2(j) of the I.D.Act, 1947. In their statement of claim & in affidavit applicants have alleged that they were doing the work of crushing the samples of stones, filtering the crushed samples and putting the filtered power into boxes and putting label on the boxes. They were also performing the job of stone rubbing and pasting the proceeds on glass-slide and polishing etc. Beside above mentioned work applicants were further performing the work of waterman, preparation of tea, table cleaning, telephone attending, mail distribution & photocopy preparation. In cross examination also applicants have alleged that they were doing the work of crushing the samples & remaining five workers were also performing the same work.

24. Annexure-R/1 filed by opposite party is a letter dated 29.10.99 which has not been disputed or challenged by applicants. This letter has been written to by Secretary, Ministry of Labour, Government of India, New Delhi to Chairman, Atomic Energy Commission, Department of Atomic Energy, Mumbai, wherein it has been mentioned that it has been decided that ' Atomic Mineral Division' will not be considered as an 'Industry' within the meaning of section 2(J) of the I.D.Act, 1947. As this fact has not been disputed that ' Atomic Mineral Directorate for Exploration & Research' situated at Jaipur is within the ambit of "Atomic Mineral Division" of Atomic Energy Commission, Department of Atomic Energy, hence, I am of the view that opposite party is covered within the definition of 'Industry' as provided u/s 2(J) of I,.D.Act, 1947.

25. Now, as far as the question of appointment of the applicants in the organization on the post of Helper, Technical Assistant and their dismissal on 30.4.2008 is concerned, these facts have been specifically denied by opposite party. Applicants have stated in cross examination that they were not issued with any appointment letter by opposite party. They have also not given any reason in their claim or affidavit in evidence that why they were removed from service. It is not the case of the applicants that they had oral appointment and removal. From perusal of entire cross-examination of the witness for non-applicant Sh. Vinod Kumar C.K., Assistant Personnel Officer, there appears nothing to say that applicants were appointed by non-applicant.

26. On the basis of above discussion I am of the view that applicants have failed to prove that they were appointed by non-applicant to the post of Helper, Technical Assistant on their respective date of appointment as alleged by them.

27. As far as the determination of the question about nature of engagement of applicant with non-applicant is concerned in opening part of cross examination applicant Shri Ram Sharma has alleged that he was not engaged on contract but on page two of cross examination he has admitted that identity card (w-3) belongs to him which contains the detail of the person to work on contract. He has also admitted that he had applied to work on contract & in the year 2007 also he had applied to work on contract. W-3 identity card is in nature of pass for the period of 1.7.2006 to 31.10.2006 which serves as gate pass against security staff to permit the holder for making entry to the establishment for executing the work for which he has been engaged. W-3 does not indicate that holder is an employee of the non-applicant. Applicant has further admitted that person coming to work on contract were required to make signature for their attendance. The case of other applicants are similar to Shri Ram Sharma and identity cards and other documents filed by them are also similar to that of Shri Ram Sharma.

28. From perusal of document R/2, R/3 & R/5 status of Sh. Manoj Kumar Peepliwal emerges out to be a contractor and not a workman and status of Shri Ram Sharma as a contract worker for Shri Manoj Kumar Peepliwal. Same documents are appearing in CGIT case no. 28/2011 relating to Shri Manoj Kumar Peepliwal to contend that he is a workman of opposite party which is neither tenable nor acceptable.

29. Documents W/8, W/10 & w/11 filed by Sh. Chhagan lal in case no. 27/2011 relating to him are disclosing his status as contractor and not a workman. W/8 shows that he has received payment as contractor and not as a workman. All these documents and their content have been accepted by Sh. Chhagan lal in his cross examination. Sh. Chhagan lal has accepted that he has not filed document to support the requirement of section 25-F.

30. Documents w-1/1/2, W/4 & w/5 on record of case no. 26/2011 relating to Shri Rakesh Kumar Upadhyay show that he has taken work as contractor to carry out the work with help of two workers for the period 1.5.2006 to 31.10.2006 and these documents are admitted to have been filed by applicant in his cross examination. There is no evidence on record to draw a conclusion in favour of applicant Shri Rakesh Kumar Upadhyay about section 25-F. In CGIT case no. 25/2011 relating to Sh. Danna lal he has admitted that he was getting work on the basis of quotation along with other persons relating to remaining four cases. He is standard VIIIth pass. He has also admitted that documents relating to Sh. Manoj Kumar regarding award of work on contract. There is no document on record to prove his case for extending benefit of section 25-F to him or to show that he was appointed by opposite party. Cross examination of witness of non-applicant does not provide any aid in favour of applicants that they are workmen appointed by non-applicant. Based on above discussion I am of the view that there is no employer-employee relationship between the parties on any ground e.g. mode of engagement, payment, attendance on work, leave, deduction of contributing provident fund etc.

31. Shri Ram Sharma has further alleged that he is not aware that work carried out by him were done on the basis of sanctioned budget but he is aware that he was allotted work on the basis of annexure of R/5. R-5 is a work order which has been issued to another applicant of Case no. 28/2011 Sh. Manoj Kumar to complete the work of four hundred samples within the period of two month at the cost of Rs.6000/-. Applicant has admitted that work was allotted to him on the basis of R-5. R-4 is the document which is sanction order for spending Rs.6000/- & R-3 is the quotation submitted by Sh. Majoj Kumar to complete the work of grinding & crushing the four hundred samples with help of one person along with him. R-2 is the order which shows that quotation of Sh. Manoj Kumar has been accepted which is lowest in rate out of three quotations. From perusal of document R-2 to R-5 & from admission by Shri Ram Sharma in cross examination that work was allotted to him through R-5 it appears that his engagement is purely on contract based on quotation for a period of two month against fix amount of Rs. 6000/- to be shared by Sh. Manoj Kumar with him. Engagements of other applicants are also on quotation made by them to complete a given work on contract.

32. W-14 is another document of sanction of Rs.9000/- which shows that Sh. Ram Sharma applicant has been given work contract for a period of six months from 1.5.2007 to 31.10.2007 at the rate of Rs.1500/- per month for doing various miscellaneous work such as cleaning of tables, dusting of rooms, filling water in cooler on third floor of Block A. Applicant has alleged in cross examination that he was performing the work of grinding and crushing the samples and remaining five persons also were doing the same thing.

33. From above discussion it is clear that nature of engagement of the applicants has been for different periods on contract for various types of work as indicated in the tenders and corresponding work order according to availability of sanctioned funds. These engagement do not prove that applicants have been in employment of the opposite party on the basis of appointment. Due to submission of tenders by them to secure work on contract there was no reason for issue of appointment letters to them.

34. As far as the continuity of services of the applicant Shri Ram Sharma immediately preceding the alleged date of termination for a period of 240 days is concerned annexure-3 is the record of attendance which has been admitted to be true according to statement of the applicant in his cross examination. Detail of working days in annexure-3 does not support the contention in statement of claim that applicant has completed 240 days immediately preceding to the date of termination or in any calendar year. Thus, I am of the view that applicant has failed to prove violation of provisions of section 25-F of the I.D.Act, 1947. Other applicants also have not completed the condition of section 25-F.

35. On the basis of above discussion and for the reasons stated therein I am of the view that provision of section 25-F of the I.D.At, 1947 is not attracted in the case of the applicants and their case falls within the ambit of section 2(oo)(bb) of the I.D.Act, 1947.

36. Section 25-G & section 25-H are also not attracted because applicant Sri Ram Sharma has alleged that all persons working with him on contract have been removed and none of them has been taken for work again. He has also alleged that after 2008 since the time of disengagement on contract none has been taken on work again. In above fact & circumstances ingredients of section 25-G & 25-H have neither been proved not attracted. Similarly rule 77 & 78 of I.D.(Central) Rules are also not attracted due to non application of provision of section 25-G & 25-H of the I.D.Act, 1947.

37. In support of case of the applicants reference has been made by learned counsel for the applicants to the case reported in AIR 2006 Supreme Court 355(1) on the point that on demand made by applicant if documents are not produced by non-applicant for the period of work done by applicant presumption should be made in favour of applicants that they have worked for 240 day. Countering the argument it has been argued by learned counsel for opposite party that cited case does not support the contention of the learned counsel for the applicants & burden of proof is always with the applicants to support their case with their own evidence & no such presumption can be drawn in favour of applicants unless there exists proof of existence of documents with opposite party. In the cited case of R.M.Yellatti, success of the appellant was not based on presumption. Reliance was placed by Hon'ble Supreme Court on the certificate issued by Assistant Executive Engineer as referred in para 18 of the judgement & accordingly appeal was allowed. Thus, I am of the view that case of R.M.Yellatti provides no benefit in favour of applicant.

38. In 2011 (128) FLR 121 (Supreme Court), Kuldeep Singh……Appellant v/s G.M., Instrument Design Development and Facilities Centre……..Respondent, it has been held by Hon'ble Supreme court that no limitation has been prescribed for making reference under section 10 of I.D.Act, 1947. It is found that industrial dispute exists it is incumbent on the part of the government to make reference.

39. In 2010 Supreme Court 1236, Director Fisheries Terminal Division ……Appellant v/s Bhikubhai Meghajibhai Chavda ……..Respondent, the question before the Hon'ble Supreme Court was whether the appellant was a seasonal Industry with reference to section 25-A of I.D.Act. It has been held by Hon'ble Supreme Court in para 11 of the judgement that appellant is not a seasonal industry. The finding of the learned Labour Court has been upheld on this point.

40. In 2011 (130) FLR 337, Devedra Singh ……Appellant v/s Municipal Council, Sanaur ……..Respondent,it has been held by Hon'ble Supreme Court that termination of services of an employer in violation of provision of section 25-F & 25-G is legally untenable. In this case order of termination of services of appellant was set aside by Labour Court with award of reinstatement of appellant without back wages. Award was set aside by Hon'ble Division Bench on the ground that appointment was contrary to recruitment rules and Article 14 & 16 of the Constitution and it would not be in public interest to sustain the award of reinstatement after long lapse of time. Appellant was simultaneously held entitled to wages in terms of section 17-B of the I.D.Act, 1947. The appeal against the order of Hon'ble Division Bench was allowed ad order of learned Labour Court was restored.

41. In Civil appeal no. 4980 of 2014, Supreme Court, Tapash Kumar paul…..petitioner v/s BSNL & Anr… ……..Respondents, award of reinstatement without back wages with Rs.20000/- as compensation toward back wages was passed by learned tribunal because management had failed to produce relevant documents to disclose the actual number of days for which appellant had worked hence termination was held to be violative of section 25-F of the I.D. Act, 1947. This award was affirmed by Hon'ble Single Judge. However, award of Hon'ble single Judge was set aside by Hon'ble division Bench restricting the award only to the extent of Rs.20000/- and setting aside the reinstatement of the appellant. Appeal against the judgement of hon'ble Division Bench was allowed by Hon'ble Supreme Court and award of Labour Court & Hon'ble single Judge was restored. In the present case before this tribunal Sh. Ram Sharma has alleged in his cross-examination that detail of working days produced by opposite party is correct and he has received the payment for all the days he has worked. Detail produced by opposite party does not constitute 240 days immediately prior to date of reference. Rest of the applicants also have admitted to have received all the payments for the days they have worked. They have not placed any specific contention that detail of working days filed by non-applicant is incorrect or he has withheld part of them to defeat their case on the basis of section 25-F. Thus, I am of the view that no benefit occurs in favour of applicants in matter of section 25-F from the cited case.

42. Facts & circumstances of the present case of five applicants are completely distinguishable from the facts & circumstances of the cases reported in 2010 LAB I.C. 1433 (Supreme Court), Harjinder Singh ……Appellant v/s Punjab State Warehousing Corporation ……..Respondent, RLR 1987 (1) Bhanwar lal & Ors ……petitioner v/s Municipal board, Nagaur & Ors. ……..Respondents 2010 LAB. I.C. 3926, Divisional Manager, Boudh Commercial Division, Orissa Forest Development Corporation Ltd. ……Appellant v/s Godabarish Badajena & anr. ……..Respondents & 2010 LAB.I.C. 1723 (Supreme Court), Krishan Singh…. ……Appellant v/s Executive Engineer Haryana State Agricultural Marketing Board, Rohtak ……..Respondent & I am of the view that observations

made by Hon'ble Supreme Court, Hon'ble Rajasthan High Court & Hon'ble Orissa High Court in the above mentioned cases are not applicable.

43. In 2008 (118) FLR 460 (Himachal Pradesh High Court), Block Development Officer, Pragpur ……petitioner v/s Yoginder Kumar & others ……..Respondents, respondents were retrenched in violation of mandatory provision of section 25-F. Their claim before the labour court was resisted by petitioner that workmen were engaged on project work & the project name was "Integrated Waste Land Development Project for Kangra District" hence, notice was not required to issued to them at the end of project. Learned labour court answered the award in affirmative in favour of respondents. Writ petition against the award of labour court was dismissed & award was upheld on the ground that there was no evidence on record that workmen were engaged in a project as recorded by labour court. In the present case of applicant Shri Ram Sharma & others non-applicant has not based his claim that engagement of applicants are connected with any project. Accordingly, no benefit can be derived in favour of applicants. It is pertinent to mention that in none of the cited cases the issue of section 2(J) of the I.D.Act is in question.

44. On the basis of above discussion & for the reasons stated therein I am of the view that applicants Shri Ram Sharma, Shri Danna Lal, Shri Rakesh Kumar Upadhyay, Shri Chhagan Lal Dhanka & Shri Manoj kumar Peepliwal have failed to prove that the action of the management of Atomic Mineral Directorate for Exploration and Research, Department of Atomic Energy, Jaipur in terminating their services w.e.f. 30.4.2008 is illegal & unjustified. Applicants are not entitled to any relief. Their statement of claims are dismissed accordingly.

45. Award as above.

46. Copy of the award be placed on I.D.25/2011, I.D.26/2011, I.D.27/2011 & I.D.28/2011.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 428.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **आयुक्त, एनडीएमसी, नई दिल्ली** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय दिल्ली सं. 1** के पंचाट **(संदर्भ संख्या 236/2015)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.02.2018 को प्राप्त हुआ था।

[सं. एल-42011/138/2015-आई आर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 236/2015)** of the **Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the Commissioner, NDMC, New Delhi** and their workmen, which was received by the Central Government on 20.02.2018.

[No. L-42011/138/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1, ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No.236/2015

Shri Raj Singh S/o Shri Bhan Singh, represented by

MCD General Mazdoor Union,

C/o Room No.95, Barrack No.1/10,

Jam Nagar House, Shah Jahan Road,

New Delhi – 110 001 …Workman

Versus

The Commissioner,

North Delhi Municipal Corporation,

4th Floor, Civic Centre, Minto Road,

New Delhi – 110 002 …Management

AWARD

This award shall dispose of a reference received from Ministry of Labour and Employment vide Order No. L-42011/138/2015-IR(DU) dated 02.11.2015 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

'Whether the action of the management of North Delhi Municipal Corporation in not granting promotion as Garden Chaudhary in the pay scale of Rs.3050-4590 revised from time to time with effect from 01.01.1997 to Shri Raj Singh, S/o Shri Bhan Singh, is fair and legal? If not, what relief the workman is entitled to?'

2. Both the parties were put to notice and the workman Shri Raj Singh filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 01.01.1997 by the competent officers of Horticulture Department and was posted under West Zone. No qualification is prescribed for promotion to the post of Garden Chaudhary. However, he has been denied pay scale of Chaudhary, revised from time to time. The workman has got payment of salary in the lower pay scale of mali, i.e. Rs.2610-4000 revised from time to time and has been denied the scale of Chaudhary, i.e. for his performing the duty of Chaudhary with effect from 01.01.1997. Management has fixed different pay scales of mali, Chaudhary etc. in accordance with their job and non-grant of pay scale to the claimant herein amounts to forced labour and unfair labour practice. Duties of mali is presently of an unskilled workman whereas duties of Chaudhary is skilled in nature belonging to Group C category of employees. Action of the management is alleged to be illegal & unjustified and amounts to unfair labour practice.

3. It is also averred in para 8 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon'ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order No.ADC(Hor.)/AO(Hort)/DA-VII/05/457 dated 04.03.2005. It is also averred that similar situated workmen who were performing duty of Chaudhary were granted pay scale of Chaudhary from the date when they were asked to perform duty on the higher post and management has challenged the order dated 27.07.2011 of the Labour Court in the matter of MCD vs Sultan Singh as well as before the Hon'ble Supreme Court of India by Special Leave to Appeal No.S20069/2011 and the plea by MCD has been dismissed by both, before the High Court as well as the Hon'ble Supreme Court. Workman, herein, is also similarly situated and doing work of Chaudhary and as such, entitled to same benefits.

4. Management has demurred claim of the workman by taking preliminary objections, inter alia, present dispute has not been espoused by the union, is not an industrial dispute as no notice has been served upon the management, delay and laches etc. The claimant cannot be designated as Garden Chaudhary as he has never worked on the said post. There is prescribed procedure for promotion to the post of Garden Chaudhary and there must be sanctioned/vacant post of Garden Chaudhary to which the workman can lay claim when he has passed trade test conducted by the department. Claimant has not passed the said trade test nor is he performing duties of Garden Chaudhary. No such office order has been issued by the competent authority for assigning duties of garden chaudhary. On merits, management has admitted the factum of regularization of the claimant as mali on 15.01.2000 and 01.04.1989. As per the existing rules for the post of Garden Chaudhary, malis having eight years of regular service in the grade and possessing qualification of 10th pass with Agriculture are eligible for promotion to the next post. Management has denied the other material averments contained in the statement of claim. Accordingly, it is prayed that claim of the workman herein is liable to be dismissed, being devoid of merits.

5. From the pleadings of the parties, vide order dated 07.10.2016, following issues were framed:

(i) Whether the reference is not maintainable in view of the various preliminary objections?

(ii) As in terms of reference

6. Claimant, in order to prove his case against the management examined himself as WW1 and Shri B.K. Prasad as WW2 whose affidavits are Ex.WW1/A and Ex.WW2/A respectively. They have also tendered in evidence documents Ex.WW1/1 & Ex.WW1/2 and Ex.WW2/1 to Ex.WW2/4 and I would be referring to the same during the course of my discussions in the subsequent paras. Management, in order to rebut the case of the claimant, examined Shri Harbir Singh, Assistant Director as MW1, whose affidavit is Ex.MW1/A and he has relied on documents Ex.MW1/1 to Ex.MW1/24.

7. I have heard Shri B.K.Prasad, A/R for the claimant and Shri Madan Sagar, A/R for the management.

Findings on Issue No. (i)

8. It was strongly urged on behalf of the management by Shri Anand Sagar that the claimants had not sent demand notice to the management regarding grant of status of Garden Chaudhary in the pay scale of Rs.3050-4590 with effect from 01.01.1997 with all consequential benefits and that there was no proper espousal by the union nor there is acceptable evidence on record to prove the same. It is also clear from the preliminary objections taken in the written statement by the management that the management has raised objections that no demand notice has been served upon the management nor the MCD General Mazdoor Union has any locus standi to raise the present dispute as the union is not a recognized union of the management. To my mind, there is no requirement of law that a dispute can be raised only by a recognized union. In this regard, it is appropriate to refer to the judgement of the Hon'ble Apex Court in the case of State of Bihar Vs. Kripa Shankar Jaiswal (AIR 1961 (2) SC Report 1) wherein also objection was taken on behalf of the management that the union was not a registered under the Trade Union Act on the date of the settlement and said plea was rejected by observing as under:

> 'Held, that for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A settlement arrived at in course of conciliation proceedings falls within Section 18(3)(a) and (d) of the Industrial Disputes Act and as such binds all the workmen though an unregistered union or only some of workmen may have raised the dispute. The absence of notice under Section 11(2) by the Conciliation Officer does not affect the jurisdiction of the conciliation officer and its only purpose is to apprise the establishment that the person who is coming is the conciliation officer and not a stranger. Any contravention of Section 12(6) in not submitting the report within 14 days may be a breach of duty on the part of the conciliation officer; it does not affect the legality of the proceedings which terminated as provided in Section 20(2) of the Act.

9. Courts have gone to the extent of observing that issuance of demand notice is not essential for raising an industrial dispute and said notice can even be given orally to the management. This view has been taken in Workmen of MCD vs. MCD in WP(C) 13023/2005 decided on 06.08.2007 wherein above view was taken after putting reliance upon the case of Shambunath Goyal vs Bank of Baroda (1978 (2) SCR 793), wherein it was observed as under:

> "A bare perusal of the definition would show that where there is a dispute or difference between the parties contemplated by the definition and the disputes or difference is connected with the employment or non-employment or the terms of employment or, with the conditions of labour of any person there comes into existence an industrial dispute. The Act nowhere contemplates that the dispute Would come into existence in any particular, specific or prescribed manner. For coming into existence of an industrial dispute a written demand is not a sine ,qua non, unless of course in the case of public utility service, because s. 22 forbids going on strike without giving a strike notice. The key words in the definition of industrial dispute are 'dispute' or 'difference'. What is the connotation of these two words. In Beetham v. Trinidad Cement Ltd.(1). Lord Denning while examining the definition of expression 'Trade dispute' in s. 2(1) of Trade Disputes (Arbitration and Inquiry) Ordinance of Trinidad observed:
>
> > "by definition a 'trade dispute' exists whenever a 'difference" exists and a difference can exist long before the parties become locked in a combat. It is not necessary that they should have come to blows. It is sufficient that they should be sparring for an opening".
>
> Thus the term 'industrial dispute' connotes a real and Substantial difference having some element of persistency and continuity till resolved and likely if not adjusted to endanger the industrial peace of the Undertaking or the community. When parties are at variance and the dispute or difference is connected with the employment, or non- employment or the terms of employment or with the conditions of labour there comes into existence an industrial dispute. To read into definition the requirement of written demand for bringing into existence an industrial dispute would tantamount to re-writing the section."

10. In fact, there is no precise definition of espousal under the law and it simply means that the dispute of an individual workman is adopted by the union as its own dispute or majority of workmen present has given support to the cause of the individual workman. It was held in the case of Workmen Union vs Industrial Tribunal (1994 (68) FLR 710 Calcutta) that once a dispute is referred to the Tribunal by the appropriate Government, presumption of it being an industrial dispute is there and court can draw inference and legitimately hold that there has been proper espousal of the case through the union.

11. It is also clear from espousal certificate Ex.WW2/3 that a meeting of MCD General Mazdoor Union was held on 09.07.2013 wherein issue of grant of pay scale of Chaudhary to the claimant herein, Shri Raj Singh was adopted. In view of this, it is held that there was espousal of the case of the claimant. Hence, issue No.(i) is decided accordingly.

Findings on Issue No.(ii)

12. During the course of arguments it was not denied that the claimant was appointed as regular mali with effect from 01.04.1989. Case of the claimant is that he is performing duties of officiating Chaudhary since 01.01.1997 on the directions of officials of Horticulture Department. During the course of arguments, it was not denied that the claimant was appointed as regular mali with effect from 01.04.1989. The case of the claimant is that he is performing duties of Garden Chaudhary on the directions of Horticulture Department. It was strongly urged on behalf of the claimant that in view of decision given by Hon'ble High Court in the case of MCD vs Sultan Singh as well as MCD vs Mahipal Singh there is hardly any scope for the plea being raised by the management that the claimant was not having requisite qualification so as to promote him to the post of Garden Chaudhary. It is clear from perusal of Ex.WW1/1 which is the list of malis looking after the work of Garden Chaudhary employed with Horticulture Department of Civil Lines Zone, that they are regular Garden Chaudhary who were performing duties as regular/officiating Chaudhary. In the said list, name of the claimant appears at serial No.43. There is also a column 'Working Since and in the same is mentioned as '1997'.

13. The main attack of the management is that the claimant herein was not having requisite qualification, as such, there is no question of grant of pay scale of Garden Chaudhary to the claimant from 1997. There is no merit in the stand taken by the management in its reply, that the workman herein is not entitled for promotion to the post of Chaudhary inasmuch as he neither has the requisite qualification nor has he appeared in the trade test conducted by the department. To my mind, this plea is devoid of any merit inasmuch as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

> "28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.
>
> 29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un- sustainability or perversity in the orders of the Tribunal has been made out.
>
> 30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost."

14. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court vide IA No.2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the workman herein could not qualify the test conducted by Education Consultant India Limited is without any merit and has no relevance so far as question of grant of salary against the post of Garden Chaudhary is concerned.

15. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of

benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

> "The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:
>
> (1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.
>
> (2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.
>
> (3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

16. Similarly, contention of the management that the claimant is not having requisite qualification, including passing of trade test was raised in the case of MCD Vs. Rajbir Singh. The workman, in the contention of the management, was not entitled to the pay scale of Garden Chaudhary from the date from which he was officiating as Garden Chaudhary. The above contention of the management was out-rightly rejected by the Hon'ble High Court of Delhi by upholding the decision of the learned Tribunal by putting reliance on the case of MCD Vs. Sultan Singh which was decided on 27.07.2011.

17. Since the claimant is officiating on the post of Garden Chaudhary since 01.01.1997, as such, he is entitled to the pay scale of Garden Chaudhary with effect from 01.01.1997. As a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 8, 2018 A. C. DOGRA, Presiding Officer

नई दिल्ली, 28 फरवरी, 2018

का.आ. 429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **अखिल भारतीय चिकित्सा विज्ञान संस्थान, नई दिल्ली और अन्य** एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय दिल्ली सं. 1** के पंचाट **(संदर्भ संख्या 135/2017)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 09.02.2018 को प्राप्त हुआ था।

[सं. एल-42011/154/2016-आई.आर. (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 28th February, 2018

S.O. 429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID No. 135/2017)** of the **Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi** as shown in the Annexure, in the Industrial Dispute between the **employers in relation to the All India Institute of Medical Sciences, New Delhi & Others** and their workmen, which was received by the Central Government on 09.02.2018.

[No. L-42011/154/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, ROOM NO. 511, DWARKA COURT COMPLEX, SECTOR-10 DWARKA, DELHI-110075

ID. NO. 135/2017

Shri Ajay Kumar Mahlik Through,

Jagriti Labour Union,T- 42/1,

Malviya Nagar Corner, Opposite Post Officer,

New Delhi-110017. —Claimant.

Versus

1.All India Institute of Medical Sciences,

Ansari Nagar,

New Delhi.

2.M/s HSCC (India) Ltd.

E-6 (A) Sec-1, Noida,

Uttar Pradesh.

3.M/s RDB Reality & Infrastructure Ltd.,

Bikaner Building , Ist Floor, Room No. 10,

8/1 Lal Bazar Street, Kolkata,-700071 (WB) —Managements.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-142011/154/2016-IR(DU) dated 12.05.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

> "Whether the workman Shri Amar Mohanty is entitled to receive Rs. 120000/- on account of pending legal dues from Shri Ajay Kumar Mahlik who had employed the workman for M/s RDB reality & Infrastructure Ltd., for executing the contract awarded by M/s Rites Ltd. to construct a building for AIIMS? If yes, what directions are necessary in this respect?"

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.

4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 06 February, 2018 . A. C. DOGRA, Presiding Officer

नई दिल्ली, 1 मार्च, 2018

का.आ. 430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **भारतीय स्टेट बैंक** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई** के पंचाट **(संदर्भ संख्या 68/2008)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/03/2018 को प्राप्त हुआ था।

[सं. एल-12012/73/2008-आई.आर. (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 1st March, 2018

S.O. 430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 68/2008)** of the **Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai** as shown in the Annexure, in the Industrial Dispute between the **management of State Bank of India** and their workmen, which was received by the Central Government on 01/03/2018.

[No. L-12012/73/2008-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

M. V. Deshpande

Presiding Officer

REFERENCE NO. CGIT-2/68 of 2008

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

STATE BANK OF INDIA

The Dy. General Manager [Personnel) & HRD,

State Bank of India,

Mumbai Branch,

Mumbai Samachar Marg, P.B. No. 13,

Mumbai – 400 023.

AND

THEIR WORKMEN.

Shri Prashant Deshpande,

53/106, Sagar Housing Society,

Chhatrapati Shivaji Raje Complex,

Opp. Ekta Nagar, Malad [East],

Mumbai – 400 067.

APPEARANCES:

FOR THE EMPLOYER : Mr. M.G. Nadkarni,
Advocate

FOR THE WORKMEN : Mr. M.B. Anchan,
Advocate

Mumbai, dated the 23rd January, 2018.

AWARD PART - I

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12012/73/2008 – IR (B-1) dated 18.12.2008. The terms of reference given in the schedule are as follows :

> "Whether the action of the management of State Bank of India, Main Branch, Mumbai in imposing the penalty of dismissal of Sri Prashant Deshpande vide order No. MMB/DGMS/538 dated 4.1.2007, is justified ? If not, to what relief the concerned workman is entitled ?"

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. Second party workmen filed statement of claim Ex.5. According to the second party workmen, he was working as Assistant in Mumbai Main branch of S.B.I. He was telephonically informed by the Personnel officer that his departmental enquiry will be held on 12.9.2006. Till that time he was not served with the charge sheet. On 12.9.2006 he was served with the charge sheet for the alleged misconduct of fraud of Rs.32558.64 in A/c. of Shri N. Narayan Pai's A/c. No. 913599.

(i) allegations are that the application for duplicate passbook was undated.

(ii) address thereon was at variance with one recorded on ledger folio.

(iii) style of a/c. given in the letter was different than one on record and the signature of the applicant was also at variance with one on record.

4. In this respect according to the concerned workman though the application was undated he had put the rubber stamp of the bank of having received the said application and registered the same in Inward Register on 29.10.03 and sent the application to the Manager Mr. Chhabria. Mr. Chhabria forwarded those desks to the concerned Desk Officer Mr. Kishore Vavia and Mr. Kishore Vavia signed the application of Shri N. Narayan Pai having received the same and other entries are signed by Mr. Ajit Sakhardande in the Inward Dak Register having received the said documents. This application was sent to Mr. Chhabria's cabin after 2.00 p.m. at the close of bank hours. When he sent the application Form – H to Mr. Chhabria with Inward Dak Register, Mr. Chhabria sent the register with application Form – H to the concerned Desk Officer Mr. Kishore Vavia. The application was for urgent duplicate passbook. The duplicate passbook of Mr. Pai was prepared on the same day i.e. on 29.10.03 and the same was given to the representative of Mr. Pai on 31.10.03 by the Desk Officer Mr. Kishore Vavia. The cheque was prepared by Mr. Jaishree Vedak and delivered by Mr. Ajay Pawar to the representative of Mr. Pai, verifying the signature of the concerned parties and address of the parties letter of the Desk Officer Mr. Kishore Vavia. Therefore he is not involved in fraud of Mr. Pai's A/c. As such the charge is baseless.

5. It is also a case of the workman that in Form – C for closing the a/c. he has given the date 4.11.03. However, the cheque was prepared on 3.11.03 and delivered on the same day without his knowledge. In Form – C, closure form the signature of the account-holder was verified by the Desk Officer Mr. Kishore Vavia. In the form there is no column for address. He sent that form to the concerned officer who was duty-bound to verify the signature of the account-holder and address of the account-holder. As such the allegations are baseless.

6. According to the concerned workman, with regard to charge of fraud in PPF A/c. No. 913964 of Shri C.H. Pardiwala for Rs.3491000/-, allegations are that he had received the letter of authority to collect the cheque on 19.2.04 and not referred the letter to the concerned officer nor he did establish the identity of the person Shri Tiwari who had brought the letter of authority and handed over the cheque to him. In this respect it is the case of the concerned workman that he had not received the letter of authority from Mr. Tiwari nor he handed over the cheque to Mr. Tiwari since the cheque was not ready on 19.2.04 when Mr. Tiwari came to the bank to collect the cheque. The withdrawal form and extention form were received by him on 13.2.04. He registered the form in Inward Dak Register and forwarded the same to Mr. Chhabria, the Manager. On the same day Mr. Chhabria acknowledged the same by signing

the Dak Register. Thereafter Mr. Chhabria sent the same to the concerned Desk Officer Mr. Kumaran. Mr. Kumaran sent the Form – C to concerned clerk Mrs. Surekha Niman without verifying the signature of the customer Mr. Pardiwala. Mrs. Niman prepared the cheque for Rs.3533000/- vide cheque No. 922739. Subsequently, that cheque was acknowledged and another cheque was prepared for Rs.3491000/- vide cheque No. 982743 on instructions of Mr. Kumaran, the clerk Mrs. Niman handed over the cheque to Mr. Tiwari. Mr. Kumaran without verifying the signature of the customer instructed his clerk Mrs. Niman to prepare the cheque of Mr. Pardiwala and after obtaining two signatures one of Mr. Kumaran, Desk Officer and another Mr. Ansari Officer, handed over the cheque to Mr. Tiwari. As such he had no role in handing over the cheque to Mr. Tiwari. Hence the charge is baseless.

7. According to the concerned workman, the departmental enquiry held against him is against the principles of natural justice. On 12.9.06, he attended the enquiry and requested the Enquiry Officer to grant him time to arrange his defence counsel. Since the charges were of serious nature, he told to the E.O. on that day that he will engage the service of advocate Mr. Ashfaq. However, on 15.9.06 he was not permitted by the E.O. to defendant his case with the help of advocate and adjourned the enquiry on 19.9.06. He was not handed over the copies of the preliminary enquiry proceedings. Before proceeding with the enquiry, the E.O. did not ask him to submit his reply to the charge sheet. Before examining the management witnesses the E.O. allowed the Presenting Officer to thoroughly cross examine him and after his cross examination the P.O. examined 3 management witnesses. After completing the evidence of management witnesses the E.O. did not record his statement. The E.O. did not consider the documents submitted by him i.e. the statement of Mr. Vavia recorded in preliminary enquiry by MRA Marg Police Station stating that it is not relevant. The E.O. has not properly recorded the enquiry proceedings. Those who involved in preparation of cheques and delivered the cheques were not examined in enquiry proceedings and as such he was denied an opportunity to defendant properly in enquiry. Findings of the E.O. are perverse.

8. According to the concerned workman, on receipt of the enquiry report the disciplinary authority vide his letter dt. 13.1.06 given only 3 days time to submit his comments on E.O.'s findings. He submitted his comments challenging the enquiry proceedings and further findings of the E.O. He was served with show cause notice dt. 4.11.06. He submitted his reply to the show cause notice on 10.1.07. After giving him personal hearing the departmental authority vide order dt. 13.2.07 confirmed the punishment of dismissal from services. He preferred an appeal dt. 8.3.07 to the General Manager. His appeal has been rejected vide order dt. 6.8.07. Aggrieved by the decision of the Appellate authority he raised the dispute before ALC [C], Mumbai. Since the conciliation failed, the conciliation officer submitted his failure report to the Central Govt. and hence present reference.

9. The concerned workman is therefore asking for reinstatement in service with full back wages and continuity of service.

10. The first party No.1 resisted the statement of claim by filing written statement Ex.7 stating therein that the bank lodged FIR with MRA Marg Police station on the basis of which the concerned workman was arrested on 11.6.04. He was placed under suspension w.e.f. 11.6.04. Departmental proceedings were also initiated against him and a charge sheet dt. 29.3.06 was issued to him by disciplinary authority and enquiry into the charges framed against the workman was held by Mr. M.Y. Desai who was appointed as E.O. The said enquiry was held strictly in accordance with the principles of natural justice and the workman was afforded full opportunity to defendant himself.

11. It is also a case of the management that the E.O. submitted his report on 7.10.06 in which he held that the allegations leveled against the workman relating to fraud in PPF A/c. of Shri N. Narayan Pai and Shri C.H. Pardiwala stood proved on the basis of oral & documentary evidence led at the enquiry. E.O.'s report was forwarded vide letter dt. 13.11.06 to the workman and he was advised to submit comments. The workman made his submissions on E.O.'s report. After duly considering entire material on record, the E.O.'s report CSE's submissions thereon, the departmental authority recorded his observations on 4.1.07. Considering the gravity of the charges proved against the workman, the departmental authority felt that one of the major penalty was warranted and accordingly departmental authority proposed imposition of penalty of dismissal without notice from bank service on the workman in terms of clause 6 (a) of the Memorandum of Settlement dated 10.4.02. The workman was called upon to show cause as to why the penalty should not be imposed upon him. The workman sought the personal hearing in the matter which was granted. After carefully examining the proceedings of the enquiry related papers, the report of E.O., submissions made by the workman during the course of personal hearing given to him the departmental authority did not find any tenable ground for reducing the punishment. Therefore the departmental authority passed his final order on 13.2.07 confirming the penalty of dismissal on the workman.

12. It is also a case of the management that the delay in serving the charge sheet was mainly attributable to the workman as he was not available on the last recorded address with the bank at which all the communications for effecting service of the charge sheet were sent but were returned 'undelivered'. The E.O. during enquiry had advised the workman that since the matter did not have legal intricacies and as the matter was not complicated, he may choose to be represented by member of registered union of the employees of which he was the member or any other member of the registered union of the bank to which the workman replied that he would depose on his behalf. As such the

workman was provided an opportunity to engage a defence representative to defendant his case. But the workman himself chose to defendant his case in person.

13. It is also a case of the management that the workman has signed the proceedings of the enquiry without any demur. Since the statement of Mr. Vavia, officer of the bank recorded by the MRA Marg Police station was not relevant to the departmental enquiry, it was so clarified by the E.O. to the concerned workman and therefore the E.O. was justified in rejecting the request of the concerned workman to bring the said statement on record. The workman himself has not objected to his examination before bank's witness being examined. He has made use of his evidence in the written submission filed by him and therefore no prejudice has been caused to the workman on account of his examination before examination of other witnesses of the bank.

14. It is then contention of the management that it was not necessary to record workman's statement after completing the recording of the evidence and no prejudice has been caused to the workman on this count. Even it was not necessary for the E.O. to ask the concerned workman to file his reply and produce defence witness since he was specifically advised in the charge sheet itself that he may submit his written statement and list of witnesses. Hence no prejudice is caused to the workman on this count. Since the workman has submitted his written submission on 4.10.16 which contained all the statements which the workman wanted to make in his defence, it was not necessary for the E.O. to record the statement of concerned workman after completing the evidence.

15. It is the case of the management that the workman was manning the counter and was thus the first point of control for the customers. His duties include handling of the documents received at the counter before forwarding the same to higher authorities. He has miserably failed to discharge his duties of processing and scrutinizing the documents received at the counter. The voucher Rs.100/- towards commission recovered from the account holder for issue of duplicate pass book was admittedly prepared by the concerned workman on 31.10.2003. The application submitted by the account holder for closure of the account was received by the workman on 31.10.2003 and the same was not scrutinized by him. He had recorded '4/11' at the top of the said application which specified that the workman himself had called the person, tendering the said application on 4.11.03 for receiving the bankers' cheque. He thus failed to discharge his duty of subjecting the said document to proper scrutiny. The said bankers' cheque was ready on 3.11.2003 and it was part of his duty to deliver the bankers' cheque if it was ready. He therefore handed over the said cheque to the holder of authority letter without obtaining his acknowledgement for having received the bankers' cheque.

16. It is thus case of the management that the findings of the E.O. are not perverse. He has reached the conclusion on the basis of evidence led at the enquiry. Since the charges proved against the workman were of grave nature, there cannot be any punishment other than dismissal. So according to the management the punishment imposed on the workman was quiet proportionate to the charges proved against him. On the premise the management has sought rejection of reference.

17. The concerned workmen reiterated by filing rejoinder Ex.8 that the charge is baseless. He has only received the application for duplicate pass book. That application was undated. He does not know whether that application was brought by Mr. Pai or his representative. After entering it in the Inward Dak Register he forwarded it to Mr. Chhabria. Since it was not his duty to identify the person who has brought the application for duplicate pass book as he was not having computer and ledger to verify their identity, he forwarded it to the officer concerned. Commission voucher was prepared by him since he was told by Mr. Vavia to prepare it and hand over it to him. Mr. Vavia after singing the commission voucher had told the customer to make the payment at cash counter and after the receipt of the cash payment of the commission the customer handed over that receipt to Mr. Vavia and after verifying the receipt, Mr. Vavia handed over the pass book to customer. He also reiterated that after receiving the application for closure of PPF A/c. of Mr. Pai on 31.10.03, he made the entry in Inward Dak Register and forwarded the same to Mr. Chhabria. Thereafter, he does not know what had happened to the closure application form. The bank prepared cheque on 3.11.03 and Mr. Vavia handed over the same to the customer on the same day and this has admitted by Mr. Vavia in his statement before police Ex. D-5. He was not involved in the said fraud as alleged and the charge that he collected for bankers' cheque dt. 3.1.03 for Rs.3273558/- is not correct. Shri Vavia had admitted in his statement before police that he and Mr. Shirodkar, second officer had signed the cheque and the same was given to Mr. Ajay Pawar, counter clerk to hand over the cheque to customer. Since he had not handed over the cheque, question of obtaining of acknowledgement letter does not arise.

18. It is also reiterated by the concerned workmen that Mrs. Niman handed over the cheque to the customer. This has been admitted by Mr. Kumaran in his statement before police. He has tried to produce that document in the enquiry. The E.O. refused to take it on record. His duties are only to receive the documents and enter them in the Inward Dak Register and forward it to the Manager. With this it is reiterated that the charges are not proved and the findings are perverse.

19. Following issue No.1 & 2 are framed at Ex.9. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Is inquiry fair and proper ?	No
2.	Is findings perverse ?	Yes

Reasons

Issue No.1 & 2.

20. So far contention go, it is the contention of the concerned workman that he attended the enquiry on 12.9.06 and informed the E.O. and the P.O. that he wanted time to engage the service of the defence counsel. On going through the enquiry proceedings, it appears that preliminary hearing in the case was held on 15.9.06 on which the workman was present and that day the E.O. when asked to the CSE i.e. concerned workman whether he wanted to defendant his case on his own or through a representative. That time the concerned workman [CSE] specifically told to the E.O. that he would like to be defended by an advocate to which the E.O. had told him that he did not permit so since the matter does not have any legal overtones or legal intricacies and the matter is of not complicated nature. The fact remains that the concerned workman specifically told to the E.O. that he wanted to be defended by an advocate and his request was turned down on the ground that matter is not complicated in nature.

21. As a matter of fact, on going through the charges leveled against the concerned workman, it appears that charges are of serious nature since he came to be dismissed on the basis of charges alleged to have been proved. It cannot be said therefore that the charges were of simple allegations and therefore it was necessary for the concerned workman to have been represented by the advocate. On the contrary on going through the enquiry proceedings, it appears that the concerned workman wanted to be defended by advocate Shri Ashfaq but then he was advised to get himself defended by defence representative and then it appears that the concerned workman deposed for himself. There is nothing on the record to show as to why the request of the concerned workman to have a lawyer as his defence representative was rejected. Even the management bank has not examined the E.O. who rejected the request of the concerned workman to satisfy in what circumstances the request of the concerned workman to have a lawyer as defence representative was rejected. In my considered view since the charges leveled against the concerned workman were of serious nature, a police complaint was filed against him, he was arrested and prosecuted and criminal proceedings were initiated against him then in that circumstances even in departmental enquiry he should have been given an opportunity to have lawyer as his defence representative and it appears that for no good reason his request was turned down.

22. In this respect if we see the cross examination of the management's witness who was P.O. during the course of enquiry. In his cross examination he has specifically admitted that there is provision in Bipartite Settlement to engage an advocate but then the permission of bank is essential for the same. He even admits that on 15.9.06 the workman had brought his advocate but then his advocate was not allowed as his defence representative in enquiry proceedings. He even admits that the workman wanted advocate as his defence representative because the bank employees were not ready to defendant him. When there is provision in the Bipartite Settlement that in such circumstances the CSE could be permitted to be represented by an advocate then there was no reason for the E.O. to turn down the request of the employee especially when he had made it clear that the bank employees were not ready to defendant him and therefore he had brought the advocate before the E.O. on 15.6.06.

23. Learned Counsel for the management bank submitted that paragraph 12.A of the Memorandum of Settlement dt. 10.4.02 stipulates that the CSE can avail the services of lawyer as defence representative only with the bank's permission and such permission can be refused if the allegations are very simple and they are not complicated. He seeks to rely on the decision in case of Hari Narayan Srivastava V/s. United Commercial Bank & Anr. – 1997 (4) SSC 384 to submit that there is no violation of natural justice by the respondent bank in not permitting the petitioner to be represented by the advocate in departmental enquiry. In para 5 of the judgment, it has been observed that on going through the charge sheet in the enquiry the allegations were very simple and they are not complicated. Under such circumstances it was considered that the failure to permit the petitioner to engage the advocate is not violative of principles of nature justice.

24. In the instant case on going through the allegations in the charge sheet it appears that allegations are pertaining to misappropriate huge amount of the bank respect of which police complaint was filed and the delinquent employee came to be arrested by the police and even during enquiry the employee came to be suspended. The allegations cannot be said to be very simple and not complicated. So the facts in the present case are quiet distinct and distinguishable. Even otherwise nothing has come on record as to why the E.O. has turned down the request of the concerned workman to have an advocate as his defence representative. It cannot be said that the workman on his own showed to defendant his case in person when infact he was entitled to be defended by lawyer as per the provisions of Bipartite settlement.

25. The next contention of the concerned workman in respect of fairness of the enquiry is concerned is in respect of production of copy of statement of Mr. Vavia, an officer of the bank recorded by MRA Marg police station which was refused by the E.O. to take on record on the ground that the said statement was not relevant to the departmental enquiry. Learned Counsel for the management bank submitted that the statement of Mr. Vavia recorded by the police was quiet distinct and separate from the departmental proceedings and therefore the E.O. was justified in rejecting the request of the workman to bring the said statement of Mr. Vavia on record of the enquiry proceedings.

26. At the first brush I would observe that the statement recorded by police u/s. 161 of Cr.P.C. during the course of investigation and enquiry though cannot be used at an enquiry or trial in respect of offence under investigation at the time when said statement was made but as per the proviso to section 162 of Cr.P.C. it can be used to contradict such witness in the manner provided by section 145 of the Evidence Act when any part of such statement so used. In view of that such statement can be part of the enquiry proceedings if it is relevant.

27. The statement was recorded by the police during the course of investigation in respect of facts known to Mr. Vavia who shall be bound to answer truly all questions relating to said case and in respect of facts which were also relevant in the enquiry proceedings and therefore there is no reason for the E.O. to reject the production of copy of said statement of Mr. Vavia on the ground that it was not relevant to the departmental enquiry especially when it was case of the concerned workman by way of defence in the enquiry proceedings that the statement of Mr. Vavia is the important document who was working in GAD during the material time and the concerned workman after registering the application which was undated on which he put the rubber stamp of the bank of having received said application, send it to Manager Mr. Chhabria and Mr. Chhabria forwarded those desks to the concerned Desk Officer Mr. Vavia who signed the application of Mr. Narayan Pai having received the same and that the signatures of the concerned parties and address of the parties are to be verified by the Desk Officer Mr. Vavia and that the Desk Officer Mr. Vavia instructed Mr. Ajay Pawar to prepare the duplicate pass book and then the duplicate pass book was given to the representative of Mr. Pai by Desk Officer Mr. Vavia. In respect of these facts the statement of Mr. Vavia recorded by police during investigation can be said to be relevant and then in the absence of evidence of E.O. it cannot be said that he was justified in rejecting the request of the workman to bring the statement of Mr. Vavia on record of the enquiry proceedings as defence exhibit.

28. On going through the enquiry proceedings even it appears that the statement of Mr. Vavia has not be recorded during the enquiry proceedings. It appears that during enquiry, statement of Mr. M.A. Khatib was recorded who stated in the enquiry that the CSE had told him that the representative of the party has approached for taking delivery of B/C and also the letter of authority but then the document in respect of PPF A/c. of Mr. C.H. Pardiwala and the application about the closure of PPF A/c. of N. Narayan Pai were not found. But then it appears that during his cross examination when he was asked by CSE that when the application of Mr. Pai was received on 29.10.03 how it was that the duplicate pass book was also issued on the same day on which this witness Mr. Khatib could not comment. Similarly, he could not comment on the question when it was asked to him during the enquiry by CSE as to how the B/C by Smt. M.N. Irani was issued on the same day i.e. on 23.9.03 on which the application of withdrawal was received. The second witness has been examined during the enquiry was Mr. Chhabria who appears to have stated in respect of Dak Register sent to him who used to put his initials whenever he had received it and in his cross examination by the concerned workman he could not say who was the Desk officer who initiated on the PPF Inward Dak Register on 29.10.03.

29. Third witness examined during the enquiry was Ms. Jayshree Vedak who appears to have stated during the enquiry that updation of pass book is handed by EMO and in case of discrepancy as to non-credit to cheque tendered by the customer, EMO would direct to the Assistant at the PPF Desk Officer. On the basis of this evidence the E.O. appears to have come to the conclusion that the charge No.1 as against the concerned workman is proved that since the application was received for duplicate pass book was received by the CSE and the commission voucher was prepared by him he considered the allegations as regards the fraud of Rs.3273558.64 as proved.

30. In respect of the allegations of charge of fraud in PPF A/c. No. 913964 of Mr. C.H. Pardiwala of Rs.3491000/- it was alleged that letter of authority was not intentionally referred to the Desk officer by the concerned workman and the identity was not established of the person who had brought the letter of authority and bankers cheque was handed over to him. On the basis of this evidence the E.O. found the charge to be proved on the ground that the concerned workman was handling the desk during the material period and since the withdrawal form – C does not bear the initials of Desk officer it indicates that it was not referred to the Desk officer intentionally and the bankers' cheque was delivered to the person without establishing his identity. The reasoning is based on the findings that since the concerned workman has not given any direct reply to the charge of the prosecution nor he has given any material argument against the charges of the prosecution he considered the charge as proved. This is one line reasoning of the E.O. in respect of this charge.

31. On going through the enquiry report, it appears that charge No.3 is not proved. It appears therefore that the E.O. without examining the material witnesses such as Mr. Vavia Desk officer etc. and without considering the documents in proper perspective has considered that the charges leveled against the concerned workman are proved. As such findings of the E.O. are perverse.

32. I say so because as a matter of fact it has come on record that the bank has filed proceedings for recovery of sum of Rs.4365442.66 with interest against defendant No.1 to 10. In that proceedings defendant 10 is NN Pai who is an account holder and who maintained the PPF A/c. No. 913599. In the said case it is contended that defendant No.1 in collusion with defendant No.2, 8, 9 defrauded the applicant bank and fraudulently obtained an amount of Rs.3273558.64 belonging to defendant No.10. In that proceedings concerned workman is defendant No.2. As per the judgment & order in that case the application as against the defendant No.2 & 9 stood dismissed and defendant No.1 & 3 to 8 are held liable to pay the amount. So far as contention of concerned workman in that case it was considered that he was only a counter clerk who has no authority to act upon the withdrawal form as well as the authority letter and it was finding of the fact that the bank could not establish by evidence that defendant No.2 who is a concerned workman has received the letter of authority and acted upon at the counter. The fact remains that the E.O. on the basis of same facts held the concerned workman guilty on the basis which Debts Recovery Tribunal held him not liable to pay the amount or to fasten any liability to claim the amount from him. This would also show that the findings of the E.O. are perverse.

33. As a matter of fact, it has also come on record that in criminal case which was initiated on the basis of same facts, ended in acquittal of the concerned workman. From the copy of judgment of the Session Court at Bombay in Criminal Appeal No. 110/2008 the judgment & the order of the conviction passed by the Metropolitan Magistrate convicting the concerned workman was set aside and the concerned workman is acquitted of the charges leveled against him.

34. In view of that the Learned Counsel for the management bank submitted that the acquittal in the criminal case is not determinative of the commission of the misconduct and it is open to the authorities to proceed with the departmental proceedings. It would per-se not entitle the employee to claim immunity from the proceedings. In the context he seeks to rely on the decision in case of Chairman & M.D., UCO Bank V/s. P.C. Kakkar – 2003 (4) SSC 364. He also seeks to rely on the decision in case of Sr. Suptdt. of Post Offices Pathamthitta & Ors. V/S. A. Gopalan – 1997 (II) SSC 239 to submit that the nature & scope of proof in criminal case is very different from that of departmental disciplinary proceedings and order of acquittal in the former cannot conclude the departmental proceedings. In criminal case charge has to be proved by proof beyond reasonable doubt where as in the departmental proceedings the standard of proof for proving the charge is mere preponderance of probability and therefore the order of removal from service emanating from departmental proceedings can very well be passed even after the acquittal in of the delinquent employee in criminal case.

35. He also seeks to rely on the decision in case of Avinash Sadashiv Bhosle [Dead] through LR V/S. Union of India – 2012 (13) SSC 142 to submit that the finding of the E.O. cannot be nullified so long as there is some relevant evidence in support of the consequence recorded by the E.O.

36. There can be no dispute about these legal propositions but then the fact remains that the E.O. has considered the charge as proved on the basis of same facts which were considered by the court and then acquitted the concerned workman.

37. So far as findings of the E.O. are concerned, it can be said that the findings are not based on the evidence. The question of fairness of enquiry and perversity are to be scrutinized on the basis of material on record of the enquiry proceedings and on going through the enquiry proceedings and the report of the E.O. it can be said that these findings are not based on evidence. The evidence as discussed above during the course of enquiry would show that the findings are perverse and without any reasons. It can also be said that the opportunities were not given to the concerned workman to have an advocate as his defence representative especially when the charges are serious in nature. The material witnesses such as Mr. Vavia and others have not examined to have some evidence on record to establish the alleged fraud, when infact it was contended by the concerned workman that he is only a counter clerk who has no authority to act upon withdrawal form as well as the authority letter which is subject matter of the enquiry. Even in the civil proceedings before Debts tribunal the bank did not controvert the said averment of the defendant No.2 who is the concerned workman.

38. Considering all the facts I find that the enquiry is not fair & proper and the findings of the E.O. are perverse hence I answer above issues accordingly as indicated against each of them and proceed to pass the following order.

ORDER

1. Enquiry is not fair & proper.
2. Findings of the E.O. are perverse.
3. Party No.1 to justify its action in the next stage of reference.

Date: 23.01.2018 M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 1 मार्च, 2018

का.आ. 431.—औद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, **स्टैंडर्ड चार्टर्ड बैंक** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 मुम्बई** के पंचाट **(संदर्भ संख्या 62/2008)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/03/2018 को प्राप्त हुआ था।

[सं. एल-12012/152/2008-आई आर (बी-1)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 1st March, 2018

S.O. 431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 62/2008)** of the **Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai** as shown in the Annexure, in the Industrial Dispute between the **management of Stabdard Chartered Bank** and their workmen, which was received by the Central Government on 01/03/2018.

[No. L-12012/152/2008-IR (B-1)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

M. V. Deshpande

Presiding Officer

REFERENCE NO.CGIT-2/62 of 2008

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

STANDARD CHARTERED BANK

The Head Employees Relations – India,
Standard Chartered Bank,
Human Resources Divn.,
23-25, M.G. Road, Fort,
Mumbai – 400 001.

AND

THEIR WORKMEN

Shri Jeroo Dastur & 12 Ors.,
92-B, 1st Floor,
Bhiwandi House,
Cumballa Hill,
Mumbai – 400 036.

APPEARANCES:

FOR THE EMPLOYER	:	Mr. Ashok D. Shetty & Smt. P.S. Shetty Advocates
FOR THE WORKMEN	:	Mr. R. D. Bhat, Advocate

Mumbai, dated the 4th January, 2018

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-12012/152/2008 – IR (B-I) dated 18.11.2008. The terms of reference given in the schedule are as follows :

"Whether THE Petitioners viz., S/Shri Dastur & 12 others are workmen ? If these petitioners are workmen, whether the action of the management of Standard Chartered Bank, Mumbai by retiring them by force, is justified ? If not, what relief these petitioners are entitled ?''

List of Workman.

1. Jeroo J. Dastur.
2. Vasantha Dorairajan
3. Ingrid Pereira
4. Prafulla Sanjeev
5. Dilip Pathare
6. Anandkumar Y. Limaye
7. Shrikant G. Chodankar
8. Nandkumar M. Kelkar
9. Nitant D. Bandekar
10. Rita Talwar
11. Mariya Sylvia Aranjo
12. Kersi Ichhaporia
13. Sukrita Y. Nakray

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. Second party workmen filed statement of claim Ex.7. Ms. Jeroo J. Dastur joined the bank on 10.9.73 as a Typist at the 19, N.S. Road, Kolkata office of the bank and moved to Mumbai thereafter. She was required to take calls, do filing work and assist her superior with all secretarial jobs. Sometime in the middle of June 2001 she was suddenly summoned without prior notice and told to meet her superior Mr. Abhay Pandey who along with one officer of HR Dept. handed over resignation letter to her and called upon her to sign the same. She was also handed over the work sheet of her settlement details; however she resisted signing the letter. But thereafter she was inundated with calls from HR Dept. reminding her to sign and return the retirement papers. On 29.6.2001 she received a warning e-mail from Mr. Adrian Andrade of HR Dept. which stated that she will have to send the request for early retirement and sign the papers within a day. On 30.6.2001, HR Dept. warned her against coming to work after that day. Humiliated and traumatized her asking her to hand over the papers as directed, submitting her resignation letter dated 29.6.2001 which was accepted vide letter dated 30.6.2001 and was thus out of service w.e.f. 1.7.2001. That time she was serving as Secretary as Finance Information Systems office of the bank at 270, D.N. Road, Mumbai.

4. Mrs. Vasantha Dorairajan joined the bank on 2.5.74 as a Steno-cum-typist. Her job entailed compiling expense vouchers and capital exp. from all over the country and posting into proper account, balance the ledger, preparing tax returns, TDS returns and other supplementary returns. On 27.10.2001 she was called by HR Manager and told that they did not have any job for her in the new set up and hence she should not come to the office from 1.11.2001. Consequently, she submitted her resignation letter on 30.10.2001 which was accepted vide letter of even date i.e. on the same day and ceased to be in service w.e.f. 1.11.2001.

5. Ms. Ingrid Pereira joined the bank on 7.4.84 as Telephone Operator. The nature of work assigned to her was non-supervisory and totally routine in nature. The job entailed accepting the telex messages and sorting them out

alphabetically and numbering them for the officers to test and authenticate them and to see that they are being transmitted. In the end of May 2001 she was summoned by the Head of Zonal Processing Unit Mr. Abhijat Thakar and told to resign. But then she continued working as usual. After a month one Mr. Venkatesh of HR Dept. sent his Secretary Ms. Jenny Menezes to the workman to convey her that she has to resign. She resisted and asked for reason for the same to which she was informed that entire department was being outsourced and hence there was no position available for her. Thereupon she handed over the typed letter of resignation and told to sign the same. Her I-card was snatched from her. She then requested Mr. Mervin D'Silva to absorb her in the new set up or atleast employ her on contract basis but he flatly refused. Under the circumstances she submitted her resignation dated 27.7.2001 which was accepted on 1.3.2002.

6. Ms. Prafulla Sanjeev joined the bank on 25.9.74 as a Typist-cum-clerk. She was made an officer in 1983 and continued to do routine work throughout her tenure with the bank. She was working in Service Delivery Section of the bank. She served in several departments such as bills, share issue, clearing, documentation etc. In June 2001 her superior Ms. Manisha Agaskar was after her to submit her resignation but she did not submit her resignation. Thereafter Mr. Adrian Andrade from HR Dept. personally met her and told her if she would not do as told she would be sacked with inevitable disgrace and stigma. Upon being given an ultimatum to resign she made an appeal to the management vide letter dt. 15.6.2001. Lastly, she left with no option but to act at the biding of her superiors and finally submitted her resignation dt. 25.6.2001. Management accepted the resignation vide letter dt. 25.6.2001 relieving her of her services w.e.f. 1.7.2001.

7. Mr. Dilip S. Pathare joined the bank on 29.5.74. as typist-cum-clerk. He was made an officer on 1.12.87 and continued to do routine work throughout his tenure in the bank. He was working with domestic bills, back office section of the trade finance dept. of the bank. His job entailed receiving documents from the front office which were then scrutinized by the special assistant pointing out the discrepancy if any. Documents were then forwarded by the workman to the A/cs. Manager for his approval who then decide whether the documents were to be negotiated against customer limits or sent on collection basis through the correspondent bank. On 13.3.2001 Manager of the Dept. Mr. Vilas Risbud informed him that he was required to present in the conference room of the bank to meet the segment head. He entered the conference room. He found 3 officials present there who told him that due to restructuring within the bank there was no suitable position available for him and that he would have to quit. He was again called to the office conference room and told to submit retirement application immediately failing which he would be dismissed. Mr. Gulati informed him that he had no choice in the matter. He was held out a threat that he would be thrown out of premises with the help of security guards and would be forced to led a life of ignominy. Despite his request the management relieved him of services on 14.6.2001.

8. Mr. A.Y. Limaye joined the bank on 26.10.70 as Typist-cum-clerk. He was subsequently designated as officer on 10.4.1982 but continued to do routine work throughout his tenure in the bank. He was working with the finance dept. as Insurance Officer. In April 2001 he was summoned by his superior Mr. Mobedji and given ultimatum that he would have to submit his resignation since there was no job available for him in the new set up of the bank. He was forced to give resignation on 1.5.2001.

9. Mr. Shrikant Chodankar joined the bank on 1.4.72 as Typist-cum-clerk. He was subsequently designated as officer in 1991 but continued to do routine work throughout his tenure with the bank. His job entailed mechanically inputting data provided to him by his superiors. Till his promotion as officer, he worked as a Typist in Bills Dept, Securities Dept and later on as a Clerk in All depts. such as Savings, Current, Fixed Deposit, Remittance, Accounts, Clearing etc. He did the job under the supervision of his superiors. In July 2002 he was informed by his immediate superior Mr. Kishore Lad that he has to meet the panel of senior management. Management informed him that there was no job available for him anywhere that he would have to be out of the service of the bank by 30.9.2002. On 16.9.2002 his immediate superior received mail from Mr. Sachin of HR Dept. enquiring about the status of his resignation. He was threatened saying that if he would found on bank premises on 1.10.2002 he would be physically thrown out with the help of security guards. In the circumstances he submitted resignation letter dt. 20.9.2002.

10. Mr. Nandkumar Kelkar joined the bank on 16.1.92 as Systems Officer and was assigned technical and clerical work. He was working with Information & Technology Dept. of the bank. The job entailed taking print outs of the report and providing application and hardware support to the user departments. In January 2003 he received calls from the superiors demanding his resignation. In January 2003 he was called by his superiors – Kishore Lad, Vijay Reddy, Love Tandon and officer from Hongkong who communicated to him that his services were no longer required by the bank and that he should submit his resignation to the bank else he would be issued a letter of termination and public notice would be issued against him. Under these circumstances he submitted his resignation on 28.1.2003 which was accepted on 31.10.2003 effective on the same day. However, thereafter he received the letter from the Trustees of the bank on the preceding date i.e. 20.1.2003 advising him that his pension benefits have been finalized.

11. Mr. Nitant Bandekar joined the bank on 31.10.86 as Clerk-cum-typist and was assigned technical and clerical work during his tenure with the bank. He was promoted as System Operator on 17.11.88. The job entailed giving application and hardware support to the user departments and to upkeep the data centre and keeps the systems ready as per SLA. In January 2003, he was called by his superiors – Kishore Lad, Vijay Reddy, Love Tandon and officer from

Hongkong who communicated to him that his services were no longer required by the bank and that he should submit his resignation to the bank else he would be issued a letter of termination and public notice would be issued against him. Under these circumstances he submitted his resignation on 28.1.2003 which was accepted on 31.1.2003 effective on the same day. However, thereafter he received the letter from the Trustees of the bank on the preceding date i.e. 20.1.2003 advising him that his pension benefits have been finalized.

12. Ms. Rita Talwar joined the bank on 15.2.98 as Typist-cum-Cashier. Subsequently, she was given designation of officer on 21.6.91 but continued to do the routine work throughout her tenure with the bank. She was working with the bank office operations of the bank under the name of SCOPE International P. Ltd. She worked in diverse depts. such as Cards Division, retail lending & clearing. She was handling stop payment, attached accounts, deceased accounts and unclaimed accounts. The job entailed calculation of charges for stop payments, receipt of attachment orders, notices from statutory authorities, tagging the accounts processing the payments. She was required to manually input thousands of accounts details on the computer. On 3.9.2001 she was issued a letter deputing her to SCOPE International P. Ltd. In April 2002 she was summoned by her superiors Mr. Abhijat Thakar and Mr. Arun Ganpathy who informed him that she should stop coming to the office from 1.5.2002 and that she should submit her resignation. She was told that in case she did not resign, she should not be allowed to enter the premises after 30.4.2002. Under these circumstances she handed over the resignation letter to Mr. Ganpathy which was accepted vide letter dt. 26.8.2002.

13. Ms. Maria S. Aranjo joined the bank on 1.4.74 in the non-management cadre of the bank. She worked in the depts. of Finance, Accounting Control and General Administration. The nature of work assigned to her was non-supervisory and totally routine in nature. Duties entrusted to her were primarily the processing of expense vouchers, various claims of medical, water, light and fuel, car expenses vouchers, preparation and updation of data base of the employees of the bank and helping the general administration. On 17.10.2001 she was told that there was no job available for her. She was handed over sheet giving details of settlement dues. Under these circumstances she handed over the letter on 31.10.2001 and left the premises. Bank accepted the resignation on 31.10.2001.

14. Mr. Kersi Ichhaporia joined the bank as clerk on 19.5.69 and promoted as officer on 3.1.88. He was assigned various duties which were routine and clerical in nature. He was required to make entries in the pass book which were then authenticated by his superiors. He was given task of posting vouchers on machines etc. In November 2002 he was summoned by his superiors and told not to come to the office from 1.12.2002. He sent legal notice to the bank on 27.9.2003 which was replied by the bank on 24.10.2003. No resignation letter was sought from him.

15. Ms. Sukrita Y. Nakray joined the bank on 11.2.1971 as a Clerk-cum-Typist. She was promoted as an officer on 16.12.1988. She worked in the Funds Transport, bank office operations, output control and Consumer banking Services of the bank. In March 2001 she was called by her superiors Mr. Inder Camotra, Mr. Shantanu Shyam and Mr. Radhakrisnan and told that her services were no longer required by the bank and she should submit her resignation. She was told that in case she refused for the same she would be issued termination letter and the bank will also come out with public notice to that effect which would jeopardize the chances of seeking another employment. Under duress she submitted her resignation letter on 22.6.2001 along with covering letter that speaks for itself. Resignation was accepted vide letter dt. 25.6.2001.

16. It is the case of the concerned workmen that they have not tendered the resignation on their own volition. Entire exercise of tendering resignations and their acceptance was colourable exercise of the powers by employer upon the employees. They were coerced into tendering their resignations for paltry amount and their statutory rights were muzzled as such the first party employer arbitrarily terminated their services under the garb of resignation without following the due process of law. The terminations are malafide, vindictive, illegal and stigmatic.

17. It is also a case of the concerned workmen that the action on the part of first party employer was on account of restructuring the functioning of the bank and a permanent reduction in number of employees. The first party was therefore required to give notice as per the provisions of section 9A read with item 11 of Fourth Schedule and Rule 34 of the Industrial Disputes Act, 1947. There is breach of section 25 (F) and Section 25 (G) of the Industrial Disputes Act, 1947. Therefore they made an application before RLC under the provisions of the Industrial Disputes Act, 1947 for conciliation on 29.9.2003. Vide order dated 6.1.2004 / 11.2.2004, ALC [C] – III dismissed their applications. Aggrieved by the said order the workmen preferred writ petition before the Hon'ble High Court being WP No. 2882/2005. Vide order dt. 10.11.2007. The Hon'ble High Court allowed the petition of the workmen. Pursuant thereto ALC sent a failure report to the Central Govt. whereupon the instant reference has been made. They are therefore asking to hold & declare that their services have been terminated by the first party and that the resignations procured by the first party are void and illegal. They are also asking to direct the employer to treat them as in continued employment of the first party or in the alternative direct reinstatement of the workmen and to pay full back wages to them with continuity of service and benefits.

18. First party management resisted the claim by filing written statement Ex.9. It is the contention of the first party that the concerned workmen are not workmen as defined by section 2 (s) of I.D. Act, 1947 and as per the records of job description of the 13 persons they were to perform duties of the management staff of the bank and by no stretch

of imagination the said duties would be called as clerical duties. They were drawing salaries in the pay scale of management staff of the bank and also availed of loans and pre-requisites from the bank as per the terms applicable to management staff.

19. It is then contended by the management that the concerned workmen accepted all financial benefits. They chose to raise this matter of alleged illegal termination only after accepting all the financial benefits. The bank infact did not seek their resignation but the employees themselves obtained for early retirement on their own volition. They are receiving their pension in terms of their service conditions from the bank and hence the question of reinstatement with full back wages as claimed by them does not arise.

20. It is also a case of the management that Standard bank acquired ANZ Grindlays Bank in the year 2000 and as part of the integration processes, some of ANZ Grindlays Bank officers opted for early retirement. As per normal process of retirement the bank accepted the applications of the employees of the early retirement and gave them financial benefits as per the policy prevailing at that time which was accepted by them. Final settlements were made to their salary accounts after all the formalities were completed including deduction of tax at source. They have been paid PF dues, gratuity dues and additional amount of ex-gracia. They are now pensioners and the pension amount is being credited to their S.B. A/c. in the bank for every month. They have not resigned from the bank by giving letters expressing their desire to retire from the services. They were not even entitled to ex-gracia which the bank paid out of goodwill. The letters dated 14.1.2002 by them by way of appeal, were afterthought to create the record for the purpose of litigation as is evident from the fact that the signatories to the letter had already submitted letter of resignation which was duly accepted by the management of first party. Their PF, ex-gracia, gratuity were already settled and signatories to the letters are already receiving pension.

21. It is then case of the management that Ms. Jeroo J. Dastur submitted her resignation letter on 29.6.2001 out of her own freewill without any coercion from the superior officers of the first party and it was accepted by the bank on 30.6.2001. Ms. Vasantha Dorairajan was relieved of her services on 1.11.2001 after she submitted letter of resignation dt. 30.10.2001 which was accepted. Ms. Ingrid Periera also submitted the resignation dt. 27.7.2001 to the management which was accepted vide letter dt. 1.3.2002. Ms. Prafulla Sanjeev submitted her resignation dt. 25.6.2001 to the first party on her own volition which was accepted on the same day and she was relieved w.e.f. 1.7.2001. Mr. Dilip s. Pathare submitted his resignation which was accepted by the bank only after receipt of his letter requesting the bank to consider his resignation and accordingly he was relieved from services w.e.f. 14.6.2001. Mr. Shrikant Chondankar submitted his resignation on 20.9.2002 which was accepted by the management. Mr. Nandkumar Kelkar submitted his resignation on 28.1.2003 which was accepted by the bank on 31.10.2003. Mr. Nitant Bandekar also submitted his resignation by letter dt. 28.1.2003 which was accepted on 31.1.2003. Ms. Rita Talwar submitted her resignation out of her own freewill without any force which was accepted by the management and she was relieved from her services. Ms. Maria S. Aranjo also submitted her resignation dt. 31.10.2001 by her own freewill without any force which was accepted on the same date. Ms. Sukrita Y. Nakray submitted resignation dt. 22.6.2001 willingly without any force and on her own volition.

22. It is precisely the case of the management that there was no any breach of section 25 [F] and 25 [G] of I.D. Act. There was no retrenchment of any staff in case of these workmen and therefore the question of paying compensation to them does not arise. The concerned workmen had willingly submitted their resignations which were accepted by the management. On these premises, the first party management has sought rejection of the reference.

23. Following issues are framed at Ex.13. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1	Whether employees involved in the reference are 'Workmen' ?	Yes
2.	Whether first party proves that, these employees tendered resignation and it acted upon it ?	Yes
3.	Do the employees prove that the resignations were obtained from them under coercion and under influence of management ?	No
4.	Are the employees entitled for any relief ?	No
5.	What Order ?	As per final order

Reasons

Issue No.1.

24. So far contention go, the averments contained in the affidavits of the concerned workmen and in the statement of claim, is to the effect that none of them has any authority to take any decision on his / her own and that all the

actions were taken by them as per the instructions of the management of the dept. There is no cross examination in this respect. Even though it was tried to believe that they were promoted in the course of their service and that they were drawing salaries in the pay scale of the management staff of the bank and also availed of loans and pre-requisites of the bank as per the terms applicable to management staff.

25. In this respect it will have to be said that the designation of the employee is not relevant. What is required to be ascertained is the dominant nature of the work. The word 'supervise' and its derivatives are not words of process import and must often be construed in the light of context for unless controlled them cover and easily simple oversight and discretion as manual work coupled with the power of inspection and superintendent of the manual work of others. In the context the hand can be laid on the decision in case of Sharad Kumar V/S. Govt. of NCT of Delhi – 2002 (93) FLR 826.

26. From the evidence of the concerned workmen it has come on record that Ms. Jeroo J. Dastur the concerned workman was working as a Secretary in the Finance Information Systems and the nature of work assigned to her was non-supervisory and totally routine in nature. She was required to take calls, do filing work and assist her superior with all secretarial jobs. So far evidence of Ms. Vasantha Dorairajan is concerned, he claims that he was promoted as staff on special rates of pay and his designation was below that of officer. The nature of his work consists compiling express vouchers and posting into designated accounts, balancing the ledger, filing of returns, TDS returns and other supplementary returns. Similarly the job entailed to Ingrid Periera was accepting of telex messages, sorting them out alphabetically and numbering them and putting them upto officers to test of messages and then see that they are being transmitted. The work assigned to Prafulla Sanjeev was of checking the telex received and tallying the amount given in the telex with cheque and was initial check and putting it up to his superior before dispatch. The work assigned to Dilip Pathare was automation work of various branches and doing the balancing and reconciliation of savings bank, current a/c. fixed deposits etc. Similarly the work assigned to Anandkumar Y. Limaye was also in respect of issuing pay orders based on telexes received. According to him he had no powers whatsoever to make any change in the mandate given in telex messages. Shrikant G. Chodankar was assigned the duties in various depts. as Typist in bills inland trade securities, current accounts, fixed deposits, remittances, clearing etc. Nandkumar M. Kelkar was also assigned duties pertaining to data centre operations. Nitant D. Bandekar was assigned duties of processing the deposits of all the cluster branches of Bombay including statutory deductions of taxes and pertaining all international external returns as per laid down audit norms. Maria S. Aranjo was assigned duties of clerical and secretarial work as of routine. Kersi Ichhaporia was assigned routine duties which were clerical in nature. Sukrita Y. Nakray was assigned duties of processing of all inward authenticated messages received from corresponding bank.

27. Considering the nature of duties assigned to the concerned workmen it can be said that though they are said to be promoted as officers, nature of their work which they were doing while service was not supervisory.

28. In case of all India RBI employees & Anr. V/S. RBI & Anr. – AIR 1966 – SC 305, it is held that the work of the bank involved layer upon layer of checking and checking is hardly supervision but where there is power of assigning duties and distribution of work there is supervision.

29. It can be said therefore that to have supervisory work the employee must occupy the position of command and direction and should be authorized to act without sanction of the Manager or Supervisors. The name or the designation of the employee is not determining test. Mere checking work of others is also not enough because checking is a part of accounting and not of supervision. The work done in the audit dept. of the bank was not supervision. In view of this legal position if we see the work assigned to the concerned workmen it can be said that the work which they were doing while in service was not supervisory. Therefore their designation is not relevant. Merely saying that they were promoted as officers does not mean to say that they were not the workmen within the meaning of section 2 (s) of the act.

30. Even then the Learned Counsel for the first party submitted that Dilip Pathare in his cross examination has accepted that his work was of supervisory in nature. He submits that the concerned workmen were drawing the salaries in the pay scale of the management staff of the bank. The submission is also to the effect that the concerned workmen have not produced any documents to show that they were performing the duties of the workmen when infact it was burden on the workmen to clear and prove the duties performed by them. Since they were promoted to the cadre of officers and drawing salary in the pay scale of management staff. They were not the workmen within the meaning of section 2 (s) of the act.

31. Learned Counsel for the management seeks to rely on the decision in case of Standard Chartered Bank V/S. Vandana Joshi – 2010 II LLJ 409 to submit that in order that a person can be designated as workman u/s. 2 (s), he must be employed to do the work which falls within the stipulated categories i.e. manual, un-skilled, skilled, technical, operational, clerical or supervisory.

32. To be precise the submission is that the 13 concerned workmen can no stretch of imagination be deemed to be of clerical nature and routine work. It is not possible to countenance the view propounded by the Learned Counsel for the management in this respect because as per the contention of the management the concerned workmen are relieved from their services. Obviously, they were not in a position to procure the documents maintained by the bank. On the

contrary the management witness No.2 has merely identified Ex.42 to 55. He clearly admits that he has not filed the documents to show that the concerned workmen were doing any important work. He admits that his involvement was restricted to calculation of dues of the employees. He then admits that employees covered by Bipartite settlement are getting Rs.9000/- p.m. but the concerned workmen with the reference are getting Rs.2000/- p.m. by way of pension. As per his own admission he does not know whether any of the employees concerned in the reference is given power of attorney of the bank. Under these circumstances there is no evidence on the part of bank to prove that the concerned workmen in this reference are not the workmen under the law. It appears that in the present case, employees concerned with the reference have been doing routine clerical work. They were not doing pre-dominantly any managerial or administrative work. They did not have authority to take any independent decision.

33. Considering the evidence that has come on record and the legal position that stands, I have come to the conclusion that the concerned workmen are workmen within the meaning of section 2 (s) of the act. Issue No.1 is therefore answered accordingly in the affirmative.

Issue No. 2 & 3.

34. So far contentions go, it is again the contention of the concerned workmen that the resignations were obtained from them under coercion and under influence of management. In the cross examination the workmen concerned have admitted that they submitted resignations which were accepted by the management and their retirement benefits were credited in their saving accounts. Vasantha Dorairajan has admitted in cross examination that he received the amount of gratuity and PF. Amounts were credited in his account. Even he has withdrawn the money from his account. Even Prafula Sanjeev has admitted in her cross examination that she is getting some amount by way of pension. She received gratuity, PF, other statutory benefits which were credited in his account till the date of her service and she had withdrawn the same and also utilized the same. Similarly, the other workmen namely Dilip Pathare, Anandkumar Y. Limaye, Shrikant G. Chodankar, Nandkumar M. Kelkar, Nitant D. Bandekar have admitted that they received the pensionery benefits and also utilized the same. It appears therefore that on one hand these workmen have accepted the pensionery benefits and also utilized the same, they even did not make any complaint to the authorities concerned mentioning therein that they were forced to resign. But then after submitting the resignations they have accepted the benefits without any protest.

35. Therefore the question creeps in, in what manner they were forced to give resignations ? In this respect if we see the evidence of Jeroo J. Dastur, she states that she received warning email from Mr. Adrial Andrade of HR Dept who warned him on telephone that she should ask for early retirement and if she would not do so then she would be denied statutory terminal benefits. So far evidence of Sukrita Y. Nakray is concerned, she claimed that she has written a letter dt. 15.6.2001 wherein she had given the details mentioning that Mr. Inder Camotra, Mr. Shantanu Shyam and Mr. Radhakrisnan told her that there was no position available to her in the bank and therefore she handed over the letter for early retirement. In her evidence Manisha Agaskar stated to the effect that she received message from Mr. Inder Camotra mentioning therein that Mr. Camotra wanted to wish her the very best ahead who gave his personal regret to the effect that he could not do much. As seen earlier, Ms. Sukrita Y. Nakray refers to the letter dt. 14.1.2002 addressed to Patrik Gillam, Chairman of the bank wherein she wrote as under.

> "*During January 2001 to October 2001, all of us were asked to resign* ***under duress*** *though healthy, capable and giving best in the bank, we were forced to resign by calling each one of us individually and asking us to submit resignation or else face the consequences for non-compliance*."

36. Learned Counsel for the concerned workmen submitted that the letter dt. 14.1.2002 has been replied by Shri Jaywant Nair which is at Ex.39 and then there are letters independently written by the workmen which are pertaining to pressure brought on them to resign from the services of the bank. He also refers to the evidence of Smt. Prafula Sanjeev, Dilip Pathare, S.V. Chondankar, N.D. Bandekar, Smt. Jeroo J. Dastur to submit that in their evidence they have categorically stated about the pressure brought on them to resign from services of the bank. In this view the submission is that the evidence of these witnesses would show that they were forced to resign.

37. It is not possible to accept this sort of evidence and the submission of the Learned Counsel for the concerned workmen. It is because on going through the resignation letters it clearly appears that these letters simply mention about the wish of the concerned workmen to have retired early from the services of the bank. The letters simply mention as follows.

> "*I wish to retire early from the services of the bank. Would appreciate if you could kindly relieve me at the earliest*."

38. The resignation letter of Ingrid Periera is dt. 27.7.2001. Thereafter the resignation was accepted and she was relieved from the services of the bank w.e.f. 1.9.2001 and by this letter dt. 2.8.2001 she was informed that the payments after adjusting the dues if any will be processed only after the receipt of completed forms. Similarly, the resignation letter of Ms. Maria S. Aranjo dt. 31.10.2001 simply mentions that she wishes to apply for early retirement from the services of the bank and her request may be considered. It appears that the letters to which the reference is made by the Learned Counsel for the concerned workmen are dt. 14.1.2002, 30.5.2001. But there is obviously no evidence to show

that the concerned workmen before submitting resignations or subsequent to resignations had given complaint to the police station mentioning therein that they were pressurized for signing the resignation letters. On the contrary it is admitted by them in their cross examination that no such complaint was given by them.

39. If really it could have been a fact that the concerned officers of the bank threatened them saying that they should give resignations otherwise they would not be given pensionery benefits then in that circumstances it was expected of them to lodge such complaint or to protest against the concerned officers at the earliest before submitting the resignation and then not to accept the pensionery benefits in pursuant to the resignations which were given under duress as is alleged by them. On one hand the concerned workmen are accepting the pensionery benefits by giving resignations and thereafter six months they are saying that they were forced to give resignation. This conduct on their part would suggest that they have raised after thought contentions to get more benefits. In my considered view the concerned employees have not brought any evidence to prove that the resignations were obtained from them under coercion and under the influence of management.

40. In the context, the Learned Counsel for the management seeks to rely on the decision in case of Bank of India & Ors. V/S. O.P. Swarankar & Ors. – (2003) 2 SCC 721 wherein it has been held in para 114 of the judgment that a group of employees who accepted the ex-gracia payment or any other benefits under the scheme could not have resiled therefrom. Similar is the situation herein the instant case where the employees are accepting the pensionery benefits, gratuity etc. and even getting the pension and then coming out with the case that they were forced to give resignation and rather resiling themselves from giving such resignation saying that the resignations were obtained under duress forcibly and under pressure. This is not permitted since they are not permitted to resile from their earlier act of giving resignations and even accepting the benefits and getting pension on the basis of such resignations. In view of this I find that the concerned workmen have failed to establish that the resignations were obtained from them under coercion and under the influence of management. On the contrary it can be said that these employees tendered the resignations on their own volition. The resignations were accepted by the management and upon acceptance of the same they are given benefits including gratuity and pension. Hence I answer the above issues accordingly as indicated each of them.

Issue No. 4.

41. Learned Counsel for the concerned workmen submitted that all the workmen concerned were confirmed employees of the bank. They were entitled to continue in their services in the bank till retirement or death which is earlier and therefore in view of item – 10 of Fourth Schedule of I.D. Act, notice of change was required to be given under the provisions of section 9A. In view of this the submission is that the action on the part of bank amounts to illegal termination of the services and they are entitled to be reinstated with full back wages and attendant benefits. Submission is that in respect of workmen who have expired or have retired, they are entitled to monetary benefits till the date of retirement.

42. It is not possible to accept this submission. As a matter of fact, it has come on record that the employees concerned have submitted their resignations on their own volition. The resignations were accepted and they received the benefits. There is absolutely no evidence that they were pressurized for resigning from the services of the bank. It is in that circumstances it cannot be said that they were retrenched or otherwise terminated from the services and in view of that they are not entitled to reliefs claimed. Issue No.4 is answered accordingly. Hence, I pass the following order.

ORDER

Reference is rejected with no order as to costs.

Date: 04.01.2018 M. V. DESHPANDE, Presiding Officer

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